Legal Philadelphia

Comments and Memories

By

ROBERT DAVISON COXE

Of the Philadelphia Bar

Philadelphia

WILLIAM J. CAMPBELL

1908

CONTENTS

PRELIMINARY AND DEDICATORY.

Let me venture to believe that almost a half-century's membership of the Philadelphia bar, including occasional appearances in other Pennsylvania jurisdictions, and of other States, as well as observation of foreign courts, may serve as my adequate credentials, in the present emergency, in view of some asperities of expression.

Within little more than a twelvemonth, without the intermediary of a tipstaff, bearing my visiting card, or any ceremony whatever, I was cordially welcomed to the private office in the City Hall of a younger member of the Philadelphia judiciary. My visit, a professional one, was brief, solely because of my inability to accept the courteously tendered hospitality of the judge and an associate in chambers.

In the confident hope that this unwonted and commendable treatment of a brother lawyer and officer of their courts, heralded a new and desirable dispensation, I take pleasure in respectfully dedicating these modest utterances to the honorable judges whose humanity and civility are thus gratefully chronicled.

SOCIAL SIDE OF THE LEGAL PROFESSION.

Fairmount Park, in Philadelphia, in its early days, before the inexorable requirements of the public weal made impossible unimpeachable conviviality and resultant genteel good-fellowship on the part of those who conscientiously complied with Victor Hugo's sensible *dictum :*

"Buvons pour avoir de l'esprit
Et non pour le détruire :"—

was the scene of cheerful Sundays and bright summer holidays, both at Belmont and Strawberry Mansion ; when and where was wont to congregate a coterie of lawyers, nearly all of whom have since joined the great majority. The recollection of these incomparably enjoyable episodes compels the thought that the picturesque and genuinely social side of our professional life is

no longer a distinguishing feature of it. There is recalled of the choice spirits at these gatherings: David W. Sellers, Victor Guilloû, Samuel S. Hollingsworth, E. Greenough Platt, Thomas Hart, Jr., John Samuel, Samuel Dickson, James Parsons, Alexander D. Campbell, James T. Mitchell, E. Coppée Mitchell, and others; all in the vigorous prime of manhood and foremost at the junior bar.

I am not aware that such sociability and cordial mutual personal identification are so conspicuously a feature of professional life to-day. Conditions have, in the meantime, so completely changed that it is more than likely that such meetings no longer take place. Nothing militated against their continuance more than the now fully prevailing system of legal education. It is open to question whether the Law School turns out as good lawyers as were the best types of

those who served their undivided apprenticeship in the old-fashioned and sufficiently equipped and conducted law office. In truth, there is nothing like the associations of youth ; and no attachments can take firm root in the lecture room or the moot court like those developed in the intimacy of the front office. Read Mr. John Samuel's delightful paper on John Cadwalader's office, to gain an adequate idea of the salutary influences that pervaded the atmosphere of such a place. The old style hand-made lawyer had his individuality effectively fostered in such an environment. Almost invariably, there was a daily affectionate intercourse between what was, really, a preceptor, and what were, really, pupils; of incalculable service in the development, formation and perfection of the personal, not less than the professional character. One substantial evidence of this is found in the unquestionable

fact that the lawyers of to-day are, in the main, of a monotonous pattern. Of course, their work is well enough done ; but in court and out of court the individuality has departed and the picturesqueness of the social side of the life has left it. Perhaps, the increased number of courts, with no practical connection with each other, has contributed to impair the sentiment of close relationship ; and then, too, the rapid increase in the number of lawyers has rendered impossible the continuance of the spirit of brotherhood that imparted such an interest and such a charm to the old order of affairs. The university's annual output of machine-made lawyers, unavoidably, though surely, exercises its influence in effecting the lamentable change.

One indisputable fact, adverted to in no invidious sense, but which it may be fairly urged proves that the law-office was more successful than the law-school as an agent

in maintaining a standard of conduct is this: the several individuals, who have, of late years, been disbarred for unpardonable violations of professional ethics, were, without exception, the exclusive products of the law-school. There is in this no intended or implied censure of the Law Department of the University, for moral training cannot, of course, be a part of the law-school's curriculum. On the other hand, an unprincipled or dishonest youth is speedily discovered and unmasked in the unintermitted intercourse of the law office. It has, indeed, consequently happened that such an undesirable student is checked at the very threshold of his career, and the profession relieved, betimes, of subsequent embarrassment and disgrace.

Chief among the very agreeable memories of the not very distant period when genuine sociability was an adorning trait of the law-

yer's life in Philadelphia, is that of the annual Easter excursion. This peculiarly enjoyable event was customarily arranged for by those excellent lawyers and whole-souled gentlemen, E. Coppée Mitchell, Richard P. White and David W. Sellers. It generally comprised either a trip to Atlantic City or Cape May or Washington. Did the weather prove auspicious the party would number some forty to fifty ; not an insignificant contingent, considering that as late as 1881, the full membership of the Law Association did not exceed four hundred, and these were, by no means, all active lawyers. These annual professional outings were necessarily discontinued, when the bar had so increased in numbers that there was incurred too great a risk of offending the sensibilities of many worthy practitioners, who, in the nature of things, were unavoidably excluded from participation. These in-

formal assemblages were very effectual in maintaining the spirit of professional comradeship. They were fairly representative of the whole body of the active bar. The Lawyers' Club seems to struggle anemically, and the yearly meetings of the Pennsylvania State Bar Association serve a commendable purpose in the particular work it has so well undertaken; and, occasional bar banquets are pleasant enough, in their formal but ephemeral way. There is, however, neither social cement nor an unalloyed democratic spirit in either institution.

The Easter excursion, although, presumably, not designed with that object in view, exercised a potent influence in uprooting a curious condition of affairs, which prevailed among Philadelphia lawyers, and was maintained quite up to the period of the breaking out of the Civil War. A large and practically controlling section, though really

a minority of the bar, successfully arrogated to itself the claim to be the representative element of the profession. The members of this section were, beyond dispute, able and respected lawyers. They exacted, not at all, however, on account of their professional ability, but entirely, for social reasons, a peculiar deference from the rest of the bar, and from the courts, as well. Remarkable as it may now seem, this respectful consideration was generally accorded. The extraordinary attitude of this clique, the maintenance of which was attended with such success, was, in large measure, the outgrowth and survival of the narrow spirit of social prejudice which formerly separated Philadelphia into well-defined districts, at once mutually hostile and envious; and which, indeed, has not been wholly eradicated. To recall the period of impassable lines of professional caste is like reading a chapter out of "Cran-

ford." But whatever of justice may still linger in the reproach of provinciality that is occasionally cast upon the fair fame of Philadelphia, there is no possibility, whatever, of a recurrence of the peculiar manifestation of narrow-mindedness exhibited by too many of the otherwise irreproachable leaders of the old bar. In our day, as was not the case at the time referred to, a lawyer does not have to wait "till he come to forty year" ere recognition is vouchsafed him. Some of the most conspicuous and genuine successes have been the richly merited destiny of young men whose novitiate is still a recent episode in their career. And yet, another reason, of itself, and without more, would make the revival of the earlier custom impossible. What may with sufficient accuracy be designated as *professional individuality* has almost disappeared, in these days of law-firms and sky-scraping

law-offices. There was such a thing as a personal distinction in the days when the lawyer had a front-office, and especially when it was a part of his own home and fireside. The difference between the occupant of his individual house and home and the modern cliff-dwellers in flats, is not more marked.

The removal of the professional centre from the neighborhood of the old State House to the vicinity of the City Hall had its very great share in disturbing, not to say destroying, previous most pleasant conditions. It was not generally believed that when the several courts and public offices were transferred to the City Hall, or Public Buildings, as it was, for a while, the clumsy fashion to call it, the entire profession, practically, would so soon follow. In a few years, however, a large majority of the active lawyers had abandoned the classic neighbor-

hood; and the places that knew them once knew them no more. A fraction remained and some still are fortunately able to linger in the still attractive ancient precincts.

The two atmospheres are radically different. It cannot be questioned that in the change of locality, there was occasioned, unconsciously, but inevitably, a complete transformation in the social and friendly relations of lawyers with each other. The convenient and most agreeable custom of first-floor offices, the comparatively small number of lawyers, the proximity of the two beautiful parks, Washington and Independence Squares, and the State House itself, with their wealth of historic associations, were the chief agencies that gave birth to and conserved the peculiar sociability and abiding personal interest that distinguished the intercourse of Philadelphia practitioners quite up to the period of removal.

Another most delightful recollection associates itself with the unique life of the old neighborhood. Until a very recent time, the region always appropriated by lawyers adjacent to the State House premises was one of the most desirable and attractive of residential sections. Reminders of these characteristics of that portion of the city are still, happily, to be found in South Fourth street, on Walnut street, and on Washington Square. The attorney, constantly passing in his various visits to the courts and the "row" offices, on his way from his office through Independence Square, had his attention, again and again, most pleasantly distracted by visions of female grace and beauty in the members of the excellent families dwelling in the vicinity. It was a purely professional neighborhood; with no trace of the commercial or general business character in it. There must have been a subtle element in such a refined en-

vironment which favorably affected the professional standard of conduct. However keen the legal warfare waged by as able lawyers as ever practised at the Philadelphia bar, in those modest, severely plain, and insignificant old court rooms, the mutual courtesy which was, with the rarest exceptions, the dominant note, found its pregnant germs in the superior air they were privileged to breathe.

One may be permitted, even while still recognizing and obeying the imperative requirements of a more—I will not say, earnest, for such is not the fact—but strenuous era, to indulge in regret that the delightful conditions thus dwelt upon in entrancing retrospect, no longer exist. With their permanent departure, the picturesqueness and graciousness of professional life, already commented upon, became irrevocable incidents of the past. The once happy family

of lawyers, forced to forsake their intimately located professional homes—for they were, indeed, more than mere offices—with their opportunities for closer personal identification than has since been possible, was dispersed, never to be reunited. Lawyers' clubs are indispensable conveniences, but in a city like Philadelphia, where the essential spirit of club life is a fiction,—if it were ever anything else than a visionary thing—they will never help to either revive or maintain a sentiment of professional brotherhood.

A DRAMATIC CHAPTER IN THE CRIMINAL PROCEDURE OF PENNSYLVANIA.

Franz Berschine, not much more than twenty-one years old, well educated and of good character, living with his parents on the ancestral estate in Krain, the extreme Western province of Austria, fourteen years ago, became enamored of Maria Kersek, a peasant and farm servant in the employ of his parents. He proposed marriage, and she accepted him. There was inflexible opposition on the parents' part, due, principally, to the difference in social station of the parties; and the sequel established the fact that the refusal of the older folk to agree to the proposed marriage was wise and just.

But the human heart is a cryptic thing, and no rule of ethics forbids the susceptible

son of an Austrian landed proprietor from falling in love with a handsome peasant. This particular youth had, indeed, the precedent of the illustrious Goethe before him, and the great poet-philosopher, aristocrat incarnate though he was, in his mature years married the most rural of rural maidens, Christine Vulpius, after having loved her for years. And so, Franz Berschine, unheeding and disdaining parental opposition, and being unable to marry at home without parental consent, fled to America with his betrothed. Upon their arrival they took up their residence at Olyphant, in Lackawanna county, in this State, with a colony of mining compatriots. Before, however, they had completed their arrangements to be married, the girl, suddenly and capriciously, announced to Berschine that she had fallen in love with another man, whom she would shortly wed.

In his frenzied despair, Berschine produced a pistol and endeavored to blow out his brains. He had procured this pistol the day before, having been told by a relative of Maria that she had discarded him. He then determined to put an end to his life, if Maria confirmed this story. As he placed the muzzle of the cocked pistol against his forehead, the weapon was pulled away by the girl, so that the bullet went into the man's chin. In the ensuing struggle for the pistol it was again discharged, and the result was the death of Maria Kersek.

Berschine was arrested, indicted for murder in the first degree and promptly tried in the Lackawanna county court at Scranton. He was defended by able counsel. They were, however, seriously handicapped by their client's ignorance of English, in their earnest effort to procure his acquittal, based upon their faith in his story as above related,

and as communicated to them by Edmund A. Bartl, an architect and civil engineer, in high repute in Scranton, and a native of Austria.

At the trial Berschine was placed on the witness stand in his own defense. He related in his own language the circumstances already briefly detailed which attended the death of Maria Kersek. Most unfortunately, however, the official court interpreter was a German, and wholly unfamiliar with the language or dialect (Krainisch) spoken by Berschine, which speech is in no degree allied with the German or any language kindred to the Teutonic. In consequence there was given to the Court and jury a wretchedly inaccurate translation (if, indeed, the bungling performance of the misinterpreter could be called a translation at all) of Berschine's testimony. Besides this, a woman witness produced by the prosecution swore

that she saw Berschine running away from the scene of the tragic occurrence, and that in his haste to escape he stumbled and fell over a barbed wire fence, the wounds from which, she said, and it was contended by the prosecution, caused the scars on Berschine's chin.

As an inevitable consequence, the jury brought in a verdict of murder in the first degree, and Berschine was on the last day of December, 1894, sentenced to death. An appeal in his behalf was taken to the Supreme Court, but, under the evidence as given at the trial, there could be nothing but an affirmance of the conviction, which decision was announced at the close of the summer of 1895.

At this critical juncture, and through the direct agency of Mr. Bartl, the attention of the Minister for Austro-Hungary at Washington, Mr. Ladislaus von Hengelmüller, was

directed to what was, apparently, a grievous miscarriage of justice. With the business-like promptness and generous kindheartedness characteristic of Mr. von Hengelmüller, qualities which have made him one of the most popular of foreign representatives at the national capital, he instructed me, through the then Consul for Austro-Hungary at Philadelphia, the late A. J. Ostheimer, to assist the counsel at Scranton, Messrs. Colborn & Horn, in an appeal to the Board of Pardons, at Harrisburg, in Berschine's behalf.

To this particular end there was prepared and presented to the Board of Pardons a very full statement of the different languages and dialects spoken under the Austro-Hungarian flag. It was shown that there are not less than eight distinct speeches there spoken, wholly dissimilar in origin, structure, character and other peculiarities, not to speak of innumerable dialects. It was fur-

ther made plain by competent testimony that between German, even Austrian German, and "Krainisch" (the language of the Province or District of Krain), Berschine's native tongue, there is absolutely no linguistic relationship whatever.

The elaborate exposition of the remarkable confusion of tongues prevalent in Austro-Hungary was of effect to create a doubt, at least, in the minds of the members of the Pardon Board, as to the trustworthiness of the court interpreter's version of Berschine's testimony. His sentence was, accordingly, commuted to imprisonment for life. And here, apparently, and viewing the matter in the light of precedent, there was a definite end to Berschine's chances for ultimate vindication.

But the rest of this story is a most creditable part of the annals of the Pennsylvania Bar. The late Andrew J. Colborn, of the

Scranton Bar, was the senior counsel for the defense in the case of Commonwealth vs. Berschine. He was an active criminal practitioner; in excellent standing in civil practice, as well. He was a man of family and, being only a modest, hardworking lawyer, while prosperous, had always been far from wealthy. Nevertheless, amid the cares and struggles incident to his varied responsibilities, domestic and professional, Mr. Colborn did not permit himself to despair of this poor friendless Austrian youth's final release from imprisonment and disgrace.

And it is a pathetic circumstance that the aged mother of Mr. Colborn, a sterling woman of old Pennsylvania Scotch ancestry, partook in generous measure of her son's faith in the innocence of his client; and so abiding and fervent was her belief in that innocence that upon her very deathbed she secured a solemn promise from her son that

he would leave no stone unturned to secure Berschine's vindication. What a combination of impulses to inspire a man! A vow to a sainted mother and the conscientious advocate's adequate and consuming sense of his professional responsibility. Who shall say that the law is a mere business, with incidents like this to refute the accusation?

For several years after the decision of the Board of Pardons, Mr. Colborn, in season and out of season, confronted by countless obstacles, patiently pursued his investigation. As, up to this time, he had been obliged to meet the necessary expenses out of his own not too plethoric purse, and for other obvious reasons, he felt justified in communicating by letter to Berschine's father, in Austria, a full report of the case. In his letter, Mr. Colburn expressed his faith in the son's innocence, giving his reasons therefor, and emphasizing his belief that the father would

be glad to aid in establishing his son's innocence by at least contributing toward defraying the incidental expenses. Mr. Colborn was astounded and shocked by the father's reply that, as his son had disgraced himself by his identification with Maria Kersek, he had forfeited all claim to his father's affection or consideration, and that his son's fate was a matter of complete indifference to him.

It is worthy of especial comment that upon one of Mr. Colborn's visits to Berschine in the Eastern Penitentiary, where the prisoner was employed as a nurse in the hospital, the then superintendent of the penitentiary volunteered the remarkable statement that he was confident that Berschine was an innocent man. And the superintendent went on to observe, in substance, that his long experience with prisoners and criminals enabled him to differentiate between the two classes; and that there was a subtle something, elud-

ing analysis, that convinced him that Berschine was not a murderer. Likewise, a prominent at-one-time government official, and a former prosecuting officer, who, while an inmate of the Eastern Penitentiary and suffering from typhoid fever, was nursed by Berschine, subsequently contributed a written and most eloquent testimonial in Berschine's favor to the Board of Pardons, observing that it was incredible to him that such a young man could ever have committed murder.

In his explicit reliance upon Berschine's explanation of the scars upon his chin, Mr. Colborn could not but discredit the circumstantial story told by the woman witness who testified at the trial as to their origin. He was, accordingly, encouraged to endeavor to obtain, if possible, a contradiction of her tale, if not from independent sources, then from the woman herself. He learned

that she was a particular friend of the man for whom Maria Kersek had discarded Berschine; and that she had been, evidently and consequently, much prejudiced against Berschine. This witness had in the meantime left the neighborhood of Olyphant, and a long time elapsed before any trace of her could be found. Finally, however, it was ascertained that she had wandered from place to place until she had died in a small town in the State of Ohio. With only this feeble clue, Mr. Colborn repaired to this town, and, knowing the woman to have been of the Roman Catholic faith, he successfully sought an interview with a priest who had been present during her last moments, Mr. Colborn thinking that she might have confessed her perjury to this cleric.

But here the zealous advocate was again more than embarrassed by the reflection that the secrets of the confessional are inviolable.

Discouraged, but not abandoning hope, he contented himself, after confirming his suspicion that the woman had confessed before her death to this priest, with inquiry of him whether, from what he, the priest, had learned from the woman at any time, he believed Franz Berschine was guilty or innocent of the death of Maria Kersek. To this ingeniously devised question, the canons of the Church did not deny the priest the right to reply that he was satisfied that Berschine was innocent of the murder. Further, the priest consented to make oath to his statement to that effect. With this affidavit Mr. Colborn returned to Scranton. His next step was to procure an order from the proper authorities permitting a surgeon to visit the Eastern Penitentiary and make an examination of the scars on Berschine's face.

It should be observed that a request for such an examination was refused, and no

doubt properly, under the evidence as it went to the jury, by the judge at Scranton on Berschine's trial. The result of the surgical examination thus had at the Eastern Penitentiary was the extraction from Berschine's chin of a pistol bullet of the same calibre as that of the pistol with which Maria Kersek met her death.

Proudly equipped with these most convincing of independent and circumstantial proofs, Mr. Colborn appeared before the Board of Pardons at their next meeting. Upon the presentation of the respective affidavits of the priest and of the examining surgeon, the Board of Pardons immediately and without formal consultation, directed the immediate and unconditional release of Franz Berschine. Since then Berschine has been in the employment of Mr. Bartl, whose continued interest in his behalf was such an important factor. There is every reason to believe that he has before him a career of respectability and honor.

THE OLD CONVEYANCERS.

The old conveyancers of Philadelphia, although not always members of the bar, had, as a class, an intimate and not merely a technical or unscientific familiarity with the law of real estate and of decedents, of which the best of contemporary lawyers would have been proud. Among the most prominent of these conveyancing practitioners were Thomas S. Mitchell, the dean of the profession in his day; J. Warner Erwin, whose handsome face and dignified person typified a class for many good reasons, regrettably departed; Charles Rhoads, whose commodious offices in North Seventh street betokened a large and profitable business; James H. Castle, a scholar and gentleman in the exactest sense of the designation;

Charles M. Wagner, a sound real estate lawyer with a most extensive conveyancing practice in the old Northern Liberties District, Andrew D. Cash, Thomas and Passmore Williamson, Philp Wagner, Alexander Thackara, Jonathan K. Folwell, Daniel M. Fox, J. Hays Carson, Mahlon D. Livensetter, and many others equally worthy of honorable mention. How the mere repetition of these names conjures up a now quite forgotten picture of a phase of business life in our city, which was a vitally integral constituent of our daily affairs!

No section of Philadelphia has any more valid claim to "first family" pride than the old Northern Liberties district. It is noteworthy that the majority of the old conveyancers had their abode and their prosperous business in that part of the city. Their clients were their conservative, industrious and successful neighbors, whose numerous

and extensive real estate transactions kept these skilful and experienced practitioners constantly occupied. It was frequently a matter of inheritance, and the "good will" of an established conveyancing office was a very material and enviable asset. The conveyancer was commonly, too, the depository of clients' title papers, wills and other documents. In this section, as indeed, throughout the city generally, the relation between the parties was peculiarly confidential and sacred. It bred an exceptionally high type of men ; and the prosperity of the corporate enterprises which supplanted them was due in large measure to the honorable traditions which substantially embodied their legacy to their successors.

The establishment of trust companies, of which the Fidelity Trust Company was the first, was of comparatively speedy effect in impairing and ultimately destroying the

old established business of conveyancing in our city. It had been, up to the period indicated, a very remunerative and most honorable occupation. William E. Littleton, an excellent lawyer and a conveyancer in high repute, was among the earliest in his calling, in which he had been very successful, to recognize the changing condition of things, and to discern the portent to the conveyancer it carried with it. He frequently expressed his apprehension to me, that the business of conveyancing by individuals, was, under the impending new corporate system, certain to dwindle and absolutely disappear. As he, therefore, graphically put it, he proposed to "hedge" betimes, by investing as rapidly as his means permitted him, in the stock of the new company. Subsequent developments, with which we are familiar, but which many conservative souls failed to foresee, conclusively affirmed the shrewdness and wis-

dom of Mr. Littleton's anticipations. The not insignificant contingent who were wanting in such foresight, saw, too late, their business slowly and surely depart from them ; and more than one unfortunate victim of the new dispensation was compelled by the pressure of disastrous circumstances, to accept clerical positions in the new organizations whose creation quickly followed.

All the elaborate and time-consuming labors incident to the taking out of searches in the various courts and scattered public places of record, the drafting and engrossing of deeds and mortgages and other instruments, were speedily and forever done away with, under the system inaugurated by these new title and trust companies. In the matter of the preparation of deeds and mortgages alone, the introduction of the type-writer, an innovation long resisted, practically, and even after the busi-

ness was transferred to these corporations, caused the art, as it is fitly entitled, of engrossing, to become as completely a thing of the past as the writing of letters and legal documents by hand. Corporation deeds and some other formal papers are still, to a limited extent, prepared in the ancient way, but this only serves to emphasize, by contrast, the departure from the earlier and centuries prescribed manner.

It is not a fanciful or extravagant conjecture, by the way, that before many years elapse, the pen itself will be wholly superseded by the typewriter. My individual experience, in view of the ease with what at a quite recent period, I have myself, personally, substituted it for pen and ink, serves to encourage and sustain the prediction that at the end of the ensuing half-century, there will be in general use, devices in the nature of portable machines of this character, adapted to all sorts

of correspondence, business, domestic, and personal. It will be an incalculable relief from the annoyance and uncertainty that attends the deciphering of the average distorted chirography, and it will tend,—venturing again to speak from personal experiment, as well as from general observation,—to secure clearer and more concise expression. Nearly every person systematically or professionally engaged in literary work is now employing the type-writer; and it has been abundantly demonstrated that, with its help, literary composition is accompanied with greater facility. Thus, it would seem that the pen, even the fountain pen, is ultimately doomed. Who can doubt, indeed, viewing the subject, not from the empyrean of sentiment but from the solid earth of every day fact, that, though it be the final evolution of the type-writer, it will become the means of communication between lovers, "warm from the soul

and faithful to its fires," and that on it will be wafted their sighs from Indus to the Pole. It is within the memory of some, still living, that the steel pen, when first employed. was considered an unbusinesslike, unsentimental and unpoetic substitute for the more romantic quill; and the argument to be deduced from this historic fact in behalf of the type-writer and its products is too obvious to elaborate.

The praiseworthy conception of the great opportunity and inestimable utility of the new trust and title institutions was almost entirely the inspiration of Nathaniel B. Browne, the founder, practically, and first President of the Fidelity Trust Company. Mr. Browne was a real estate lawyer of exceptional ability and had been somewhat active in the political field. He was for some time, and prior to the incorporation of his company, a State Senator from one of

the Philadelphia districts. The scheme thus originated by him, found much encouragement in its promotion and the realization of his progressive ideas, in the numerous defalcations of individual fiduciaries for several years prior to the establishment of the Fidelity Trust Company.

With the consequent gradual disappearance of the conveyancers, upon the establishment of the trust companies, an important and fairly remunerative branch of the business of the legal profession, itself, likewise ceased to exist. This was the examination of briefs of title. It was, to be sure, a practical monopoly in the hands of a comparatively small number of capable specialists. The principal of these were Henry Wharton, Eli Kirk Price, Edward Olmsted, Joseph B. Townsend, William Henry Rawle, George M. Wharton, and several others not so much sought after by con-

veyancers for opinions on titles. Any deed would be unhesitatingly accepted with the favorable opinion of one of these authorities; and a brief of title with such an opinion annexed to it was an indispensable part of the muniments of title. There was an extensively prevalent notion in the profession, at large, as well as among the laity, that the emoluments of this department of practice were particularly lucrative. Yet, I have learned from a surviving relative of one of the leading practitioners in this special branch, that this accomplished lawyer's annual professional returns never exceeded the sum of ten thousand dollars; and were, frequently, much less. It was a laborious and most exacting calling, requiring a phenomenal faculty of unwearying scrutiny and a devoted attention to an infinitude of details; based, too, upon the most thorough familiarity with the technically,

difficult and abstruse law of real estate and its kindred studies. Without qualification accordingly, each of the gentlemen named, was a veritable mine of the extensive lore applicable to the subject of their investigations.

PHILADELPHIA JUDGES.

Somewhat extended opportunities for considering the official attitude and demeanor of judges on both sides of the Atlantic, authorize the observation that there has been and continues to exist a peculiar, exceptional, and, it may be said, amusing sentiment of personal exaltation on the part of our Philadelphia judiciary; the origin or the justification for which it would be as idle as it is difficult to deduce or explain. Of course, the judicial magistrate incarnates the majesty of the law and justice: and deference and homage are of right the indisputable tributes to that high majesty; but these should, invariably, be voluntarily accorded, never presumptuously or tyranically exacted. In the Philadelphia jurisdiction, however, with but rare and isolated instances to the contrary,

an arrogant high-aloofness on the part of the judges in all their relations with practitioners is a characteristic which unpleasantly and unfavorably individualizes, and radically differentiates them from the administrators of justice in other sections of our state and country, as well as in the english and continental courts.

A wholly different atmosphere is that of the english tribunals. For example, the english judge courteously and affectionately addresses counsel as "brethren," and his treatment of them is the visible embodiment of his language. In such a forum, the experienced observer is impressed with the conviction that both magistrate and lawyer are engaged in equal measure and on a common level, in interpreting the law and enforcing its mandates.

Much nearer, and close at hand, in neighboring jurisdictions in our own state of

Pennsylvania, and in New Jersey, this autocratic behavior of the local bench has no counterpart; and in their courts, there is a prevalent mutuality of cordial intimacy and regard on the part of attorney and judge, which effectually suppresses, nay, renders impossible, any inclination in a judge to treat the lawyer as if he were a subject and not an equal.

A remarkable and inexplicable feature of the Philadelphia situation is that the average newly elected judge, fresh from daily and hourly close identification with his brethren at the bar, too often becomes immediately infected with this grand lama of Thibet contagion, and is, thenceforth, a permanent, chronic victim of its virulence.

The bar of Philadelphia is not altogether without reproach for the continuance of these unnatural and unnecessary conditions. Realizing that copious doses of adulation

are, such is the force of habit, eagerly and gratefully welcomed by even the most learned and efficient magistrates, it has become too much of a custom for the speakers at bar meetings and similar gatherings, to refer to the "great and exalted" judge, and, in general, to indulge in such ascriptions of compliment and abject praise as are only employed by inferiors in their communications to superiors. It were uncharitable and unjust, perhaps, to assume, in respect of this, that in such contingencies, an unworthy and selfish purpose to woo and win, at any cost, the partiality or especial favor of the judiciary, is the potent inspiration for such extravagance of utterance. It is, rather, with greater justice, to be attributed to the habit which has been, unconsciously, let it in charity be assumed, forced upon the profession by the judges themselves. A little more courage on the part of the lawyers

would have in time prevented the development of this judicial pretentiousness, and would, now, stimulate the growth and fruition of the conviction on the part of our courts, of the absolute absurdity of this arbitrary and unjustifiable attitude.

Under existing conditions, however, a Philadelphia practitioner would incur the danger of proceedings against him for contempt of court, should he venture to take the independent stand of a New Jersey lawyer, of which I was a witness, quite recently. This prominent and highly esteemed member of that bar had justly secured the acquittal of a client charged with a crime, which, the proofs showed, had been committed out of the state jurisdiction. The judge, before whom the case was tried, thereupon announced that he would hold the defendant for a requisition. Counsel forthwith and courageously replied: "Your Honor

will do nothing of the kind!" and directed his client to leave the court room. And, that was the end of it, so far as that tribunal was concerned.

When the United States Circuit Court of Appeals for the Third Circuit was installed in the City of Philadelphia some years ago, Mr. Justice Bradley, speaking for the new court, and for courts, generally, took occasion to read a lesson of manners to the assembled bar. The most impartial and disinterested hearer of this address must have been struck with its want of tact and with its unwarranted severity. It was an undignified performance, and out of keeping with a purely ceremonious occasion. It was a most fortunate circumstance, for the event and for the profession, that Mr. Wayne MacVeagh was present, to speak on behalf of the bar. He had come, of course, prepared to present his graceful oratorical contribution to an

historical event. Mr. MacVeagh is one of the most accomplished thinkers on his feet, and his necessarily impromptu reply to this unexpected impeachment of the conduct of lawyers, was trenchant and vigorous, but withal respectful, manly and convincing.

The isolation so sedulously cultivated by too many of our Philadelphia judges does in no manner serve to enhance their fitness or capacity. In a democratic community like our own, the study and intimate knowledge of human nature is an essential equipment of an efficient magistrate; and he is materially handicapped in the effectual discharge of his functions, who neglects this beneficial study. Especially is this the untoward result when he is transferred to another field of public responsibility. There is, unfortunately, in the recollection of every one, a melancholy illustration of the resultant disadvantage and prejudice to a

good man and learned judge, suddenly becoming the executive magistrate of a great commonwealth, "cabined, cribbed and confined" in the illiberal and narrow-minded conceits which a long career upon the bench, under the self-imposed, but censurable limitations which, by reason of Philadelphia conditions, hedge and dwarf the man that the judge still continues to be. "When men are too much confined to professional and faculty habits," said Edmund Burke, "and as it were inveterate in the recurrent employment of that narrow circle, they are rather disabled than qualified for whatever depends on the knowledge of mankind, on experience in mixed affairs, on a comprehensive connected view of the various complicated external and internal interests which go to the formation of that multifarious thing called a state."

There comes to mind, in this connection,

the case of another Philadelphia judge; a man of singular purity of character, and a jurist of notable attainments. During a pleasant summer spent in his most agreeable company on the New England coast, the frequent topic of our conversation was the characters and characteristics of fellow-members of our bar. I was astounded, chagrined, and perplexed to discover that this very accomplished interpreter of the law was, with very few exceptions, deplorably ignorant of the personality of those officers of his court, the practitioners habitually appearing before him. Too often, it gave me serious and sad concern to find him attributing habits or peculiarities, indeed shortcomings and worse, to divers of his and my legal brethren of which my necessarily more intimate knowledge of them enforced the abiding conviction that they could not justly be accused. In other words, my much esteemed judicial

friend was a pitiful prey to most extraordinary prejudices that had no warrant for their existence beyond his own distorted imagination. This peculiar and reprehensible state of mind could never have possessed this otherwise fair and upright minister of the law, had he not accustomed himself from his early advent on the bench, to that separate, distant and exclusive attitude which the Philadelphia judiciary have, too long for their own good, made the fashion. It was one of his chief duties to know his brethren at the bar better than he did; and his neglect of this imperative obligation was a blot on his magisterial escutcheon, and unavoidably impaired his judicial usefulness. "No judge," truthfully observed Dr. Johnson, "can give his whole attention to his affairs. No man would be a judge, upon the condition of being totally a judge." And, as an unquestionable corollary, it may be asserted that a

judge does himself and the bar injustice in devoting his abundant leisure to fostering an extravagant sense of his importance as a representative of the law.

That there are, as already remarked, distinguished instances of unexceptionable judicial deportment in several members of our courts, whose sufficiently dignified but considerate attitude is a material contribution to that spirit of mutual good fellowship which should prevail on the part of judges and lawyers, is a circumstance, gratifying and commendable as it is, which, after all, but serves to emphasize, in the contrast, the regrettable shortcomings of the majority.

It is conceivable that the average judge is quite unconscious of the objectionable characteristics which have been animadverted upon. However that may be, might it not be well for such a judge to modestly reflect that in the fulness of his functions,

he does but represent, after all, one-twentieth of the majesty of local jurisprudence? Thus considered, it is not an overwhelming or consuming responsibility; and in the generous division and partition of the common burden which the constitution and the statute make in this behalf, there is, it is evident to the candid and impartial mind, not enough left to each participant to warrant the notion that a good judge is anything more than a much respected public servant.

CONSTANT AND VICTOR GUILLOÛ.

That the prosaic law-firm epoch tends to destroy individuality is apparent from the instances of the Guilloûs, father and son; each a difficult subject to make a pen picture of. To those that knew Victor Guilloû well he was the most fascinating of companions, and with many of the points of an excellent lawyer. His father, Constant Guilloû, was a very great all-round lawyer, alert and resourceful in every professional emergency, a discreet and sound adviser, and a wonder before juries. His versatility was extraordinary. He was a stenographer, he did his own printing, he was an excellent mechanic, and possessed no slight skill in sleight of hand.

Victor Guilloû had many accomplishments, but in the earlier day his personality, positive

though it was, was inevitably overshadowed by that of his remarkable parent. Victor Guilloû had a constitutional aversion to the contests of the forum, and although a fluent and brilliantly epigrammatic talker, he was not sufficiently attracted by juries to become interesting or convincing. The exacting responsibilities of a large office practice were more to his taste, and he was a wise and conservative counsellor. Victor Guilloû was a Roman Catholic, by inheritance only, and he once told of Judge W. A. Porter's reply to Victor's question, why he was chosen master, by agreement of counsel, in a certain litigation between two branches of the Presbyterian Church. Judge Porter's answer was: "Victor, we have gone over the whole bar list and can find no one with a more virgin mind on the subject of religion than yourself, and, therefore, consider you exceptionally disinterested."

His father died when Victor Guilloû was comparatively young. Thrown on his own resources, completely, his development was marked; and in every respect, with the exception of the conduct of trials, he was his distinguished predecessor's worthy successor. In the inner circle of his attached friends he was an unequalled conversationalist. His exquisite humor was spontaneously abundant, and seemed to flow from an unfailing spring. As a table companion he was quite unsurpassed, and he was the very embodiment of the true spirit of refined conviviality. It resembled the high grade wines of which he was an appreciative connoisseur, and finer, far, in its spirituality than the insincere talk of the average post-prandial babbler. His character assimilated itself, insome respects, to that of Charles Lamb, and particularly in his literary predilections and in the matter of friendly correspondence. Victor Guilloû

wielded a facile and graceful pen, a quill, always, by the same token; and he was especially happy in his short personal notes. It is cause for sincere regret that of the vast number of these delightful productions, of which I was the grateful recipient for twenty years or more, but one has been preserved. This was written but a few months before his death, and which is plainly foreshadowed in it. It is as follows:

1124 Girard Street,
March 22, 1903.

Dear Bob Coxe:

Yours of Wednesday sent to me up here where I have been housed for a long dreary week with another bronchial attack. I have had a hell of a time and bothered good Fred Keene to death by awakening him in the dead of night to run after doctors and things, but he has been an angel and don't show the least disgust with

me. I am getting along very well and the foolish old heart has come back into traces again and now trots fairly well. If the rain hadn't turned up—or rather turned down—I would have gone down to the office to-day and dispensed wisdom at reduced rates. I remember well the "Chapeau de Paille" and damned funny it was, but alack! and alas! do not mind me of the author. It was a "Palais Royal" farce, of course, and was done into English by Gilbert, and played at the old Chestnut what time Gemmill was on deck and called "The Wedding March" and funny then too. I wish I could help you but I cannot. Do you remember the speech of the old "Chef de Police" in "La Boulangèr a des écus" of Offenbach? He saith, "Je suis, chef de police de cette ville, et je connais tout ce qui arrive dans cette ville excepté le nom de l'amant de ma femme;"—that makes me laugh, all alone as I am.

Come and see a fellow and talk of deaths of kings and the dear old days and God be with you meanwhile.

Yours all the time,

VICTOR GUILLOÛ.

THOMPSON, ALLISON, HARE, PRATT.

I wonder whether the average present day judge's stock of patience and philosophy would endure the strain of the extraordinary diverse and heavy burdens which a great magistrate like Oswald Thompson modestly bore. There was a typical faithful public servant! Think of his responsibilities as common law judge, as chancellor, as an orphans' court judge, and as an exponent and interpreter of the criminal law. No official stenographer and type-writer was ever at his disposal. All the laborious clerical work which his manifold duties entailed upon him was done with his own hands. With him, almost invariably, a long day in court was followed by a night of arduous labor at home. Outside of the halls of justice the public saw and knew little of him. He was

the victim of a physical deformity which frequently occasioned him acute suffering; but this did not interfere with the thorough performance of his obligations. The highest praise that can be accorded him, is comprised in the statement that in his superb modesty, he identified himself so completely with the law of which he was the minister, that the dominant thought of the practitioners before him was of Thompson, the judge, rather than of Thompson, the man. I recall no judge or similar public official in whom the mere personality was more entirely merged in the function. Self-effacement like this marks the ideal judicial magistrate. It was the more praiseworthy in that to the few friends that his engrossing and unremitting labors permitted him to cultivate and cherish, he proved that in general scholarship, in genuine and deeply felt interest in public affairs, as well as in conversational qualifica-

tions, he was fully equipped to shine as brilliantly as the most popular of his fellow citizens.

The memory of another great judge and contemporary of Oswald Thompson is similarly to be cherished for his life-long manifestation of an inflexible purpose to sacrifice social allurements to public service. Joseph Allison's labors on the bench were no less arduous and diversified than were those of his distinguished associate, Thompson. Judge Allison was especially conspicuous for a trait which is more infrequently exhibited than is, perhaps, fully realized, and that is a faculty of patient, unwearying and attentive listening. He was the quietest and least demonstrative judge that ever sat in this jurisdiction. Absolutely devoid of personal or official vanity or conceit and a faithful exemplar of the simple life, he was, as it seemed to me, the closest approach to the

incarnation of justice I ever knew. After his well-earned retirement from his judicial labors, to live upon the modest competence which his economical habits had enabled him to set aside from his small salary, he gave to me, in a few words, the key to the secret of his success as a judge. His language on this occasion did not imply that this most unpretentious of men had any more elevated idea of his life-work than that he had constantly striven to do his duty. It was rather for others to speak of his career as a successful one. Judge Allison told me, at this time, that at the very beginning of his period of judicial service he adopted as a controlling principle of conduct that behind every lawyer was the client, and that however indifferently or however negligently the client's interests were championed, he, the judge, would endeavor, as far as was within his power, to protect and secure the rights of

the client, whose all, in many a case, might be at stake. Thus, Judge Allison went on to say, he found it incumbent on him, in the application of this principle, to subject himself to a discipline of perfect self-control as a listener. Those who knew him during the many years of his public activity, must remember how admirably he always held himself in hand in this regard. Amiable, considerate and equable, he was the rarest of interrupters. His attention suffered no abatement of concentration, whether it happened to be directed to the dullest or most prolix of counsel or of witnesses, or to the intricate details of testimony in an important issue, or to the ingenious and weighty arguments of learned lawyers. This strict self-enforcement of discipline contributed in large measure to make him the impartial judge that he was. And Judge Allison's example lends strong support to the theory that

judges like poets are born, not made; for he came upon the bench with a rather scanty equipment as a lawyer. By an accident, almost, he was placed upon the bench by the tidal wave of "Know Nothingism," which, for a period gratifyingly brief, overwhelmed all other political parties. It was hardly a profession of partisan faith of which an ordinarily trained lawyer should have been proud of adopting, or could have adopted. It was narrow-minded, visionary, and in the highest sense, unpatriotic. Under such circumstances, no one was justified in anticipating a distinguished future for a young judge so apparently handicapped with such bigoted prejudices. Nothing, however, in his subsequent career, gave any indication of lack of mental breadth or spiritual equipoise. Henceforward, he dwelt in the elevated and serene atmosphere which, as all his numerous published opinions betoken, was his constant environment.

On the other hand, Judge John Innes Clark Hare, with far greater attainments than Judge Allison possessed, was, by no means, his equal in judicial essentials. Hare was not born a judge. He had, no doubt, a greater educational endowment; he was, conspicuously, industrious, upright, and as impartial as his peculiar disposition permitted; and he was a judge to whom prejudice was an inconceivable human quality. He had, too, an enduring sense of the dignity and solemnity of the judicial function. He was the personification of high-bred courtesy, which becoming attribute never forsook him, even in the taxing and trying experiences of the criminal court, in which, somewhat late in his official existence, it became his duty to serve. Nevertheless, it must be admitted that it was not his nature to be a good listener. Evidence was constantly overlooked or unintentionally disregarded, as

well as inadvertently misconstrued by him. Nor were his conclusions models of judicial determination. They were, too often, discussions rather than decisions.

Judge Hare was, however, the most learned lawyer that ever administered justice in the courts of Philadelphia. His great work on the Law of Contracts has an enduringly merited celebrity in every country in which our system of law prevails. It is a splendid contribution to the department of philosophic legal commentary and interpretation.

Judge Hare came upon the bench of the old District Court in the early period of his professional life, and remained there, the guileless gentleman nature had constituted him, until the infirmities of advancing years rendered retirement necessary. His transparent simplicity of character, with that noble dignity of personal conduct which never forsook him, made it possible for him to exhibit

a certain independence, which, in others, might have been justly matter for unfavorable criticism. A noteworthy illustration of this freedom of action was presented in his singular custom of occasionally leaving Court, when held in the old District Court room at Sixth and Chestnut Streets, crossing the street, taking a drink of whiskey at a neighboring public bar, and returning to his judicial duties. It was done without ostentation, and, of course, without any attempt at concealment. In the saloon, he was treated with the unqualified reverence and respect which both his position and his gentlemanly demeanor unconsciously exacted; and gossip did not and could not venture a breath of unfavorable comment.

There was a curious development in the period of his final cessation from judicial labors, for which the Herbert Spencerian inquirers may have a sufficient explanation; in

Judge Hare's exclusive preference for light literature. Meeting him, as I did, on more than one occasion, during this time, at the Philadelphia Library, he confessed to me that he had become an omnivorous consumer of current fiction.

It was an observation of the late distinguished Henry Wharton that Philadelphia voices had undergone an unpleasant change in his day and generation. He attributed it to various causes, chief of which, in his opinion, was the influence of the Pennsylvania Dutch, with their sharp, nasal utterance. However this may be, listening to the speech of many counsel and of some judges, too, in our Philadelphia and in Pennsylvania Courts, generally, is not, always, an agreeable experience; for the average human vocal organ, there, seems to indicate that its owner is without taste or musical sensibility, however eminent and enviable he may be in

other professional attributes. Now, of all the men of his time, on or off the bench, I think that in his delivery Judge Hare had no superior. It was refined, melodious, unaffectedly clear and distinct, always well-modulated, never too rapid, and under perfect control. No pleasanter memory can be cherished of the departed, than that of the individual voice when it is as acceptable to the ear of refined taste as was that of Judge Hare. With such a recollection it is always easy to conjure up a welcome vision of its fortunate possessor.

Judge Hare was a man of singular kindness of heart. With a majority of the judges of the Philadelphia jurisdiction, he held that the statutory provision for sentence in criminal cases is rigidly mandatory; and that, consequently, the practice of suspending sentence, in particular instances of great hardship, is beyond the judicial province.

It is related of Judge Hare, that in a case tried before him in the Quarter Sessions, in which after discovered evidence made it clearly apparent to him that the female defendant had been wrongly convicted, he still felt himself compelled to sentence her. However, after fixing the term of imprisonment at three months, the minimum of punishment determined by the act of assembly, he sent for the woman's counsel; and, expressing to him his sorrow that the law allowed no other course, he handed over to counsel the sum of ten dollars, with the request that the prisoner should be informed that it was transmitted to her by the judge by whom she had been sentenced.

On the bench in the Court Common Pleas No. 2 of Philadelphia in Judge Hare's time, was Joseph T. Pratt, and whom these references to Judge Hare serve to bring forcibly to mind, as the sequel to this mention of his

now quite, if not altogether forgotten junior, will explain. Judge Pratt was born in Western New York, whence he enlisted at the outbreak of the civil war as a private soldier, subsequently serving as a scout with the Army of the Potomac. He left the service with an excellent record; came to Philadelphia, and obtained a position as prefect in Girard College, so that he might have a livelihood during the study of the law to which he applied himself, in the office of Mr. George W. Biddle. On coming to the bar, he identified himself with the criminal practice. For this he had an adequately effective equipment in his impressively sonorous voice, attractive presence and great courage. He rapidly attained a commanding position in this branch of the law, and, before long, became actively concerned with local politics. This identification with political matters, led to his quite unsolicited nomination as a candi-

date of the Republican party, for a vacancy in the Common Pleas Court No. 2. He was elected, and took his seat in this court, of which Judge Hare was president judge, and Judge James T. Mitchell, the present Chief Justice of the Supreme Court of Pennsylvania, the other associate. Unfortunately for Pratt, his practice in the civil courts had been very limited; and he was not, either by instinct or enforced habit, a general student. Beyond this, Pratt was by nature a gladiator, rather than an umpire. He had, however, a quick intelligence, capacity for work, and was extremely conscientious. After he had been some time on the bench, he admitted to me, in the confidence of the close intimacy which had long existed between us, that the unwonted strain upon him incident to judicial work was far more severe than he had anticipated. And he told me, also, that were it not for the help, kindly and gener-

ously extended to him by Judge Hare, he would have been strongly tempted to return to practice. Judge Pratt had taken a residence on Locust Street near Seventh, and, in compliance with Judge Hare's invitation, Pratt spent, for a long period, almost every evening with Judge Hare in his office on Washington Square, for the purpose of a thorough "coaching" by the president judge. Pratt most feelingly, gratefully, and eloquently spoke of Judge Hare's amiable and unselfish efforts to fairly qualify the associate judge for his, to him, most onerous responsibilities. But, there is reason for asserting that the deficiencies inseparable from his initial inadequate preparation for a civil court, were never to any great degree, removed; even with the invaluable assistance of so devoted and so capable a tutor. There is no doubt, that the admittedly terrible tension was too much for even Pratt's strong

constitution. This ultimately broke down, while he was still in the very prime of life. His comparative failure bears with it an instructively suggestive lesson for every lawyer, animated by an ambition for judicial honors, who is not certain as to his sufficient qualifications.

JOHN CADWALADER

For profundity of legal lore, John Cadwalader, for some years, judge of the United States District Court for the Eastern District of Pennsylvania, had no contemporary superior. His very great learning, paradoxical as it may appear, seriously impaired his judicial capacity. He was, in fact, often blinded by the excess of light he threw upon the subject of what may, with propriety, be called his lucubrations. In his passionate eagerness to be just and fair in his conclusions, he frequently found it difficult to decide a case of paramount importance. In the Credit Mobilier cases, he wrote, what he designated, a series of interlocutory opinions; magnificent legal essays, surely, but they were profound, even brilliant, discussions of every conceivable legal proposition appli-

cable to the issue, rather than concise and authoritative decisions. One of these interlocutory opinions is, in substance, an exhaustive and correspondingly instructive discourse on subrogation; a veritable treatise on this abstruse topic, in itself.

In admiralty proceedings, Judge Cadwalader was accustomed to avail himself of the expert assistance of a retired shipmaster; nautical nomenclature being to him an absolutely sealed book, altogether beyond his ability to master. A precedent for this is found in the practice of the English admiralty courts. This "assessor" as he is styled, was indispensable to Judge Cadwalader, as an interpreter and elucidator of maritime customs and expressions.

Mr. John Heysham, a lawyer of some prominence in the early fifties, and before Mr. Cadwalader was appointed to the bench of the Federal Court, told this, to some extent,

possibly, fanciful story, as illustrative of Mr. Cadwalader's extensive legal scholarship and his fondness for minute consideration of every question. Leaving one of the old row-offices on Chestnut Street, one day, on his way to his midday luncheon, Mr. Heysham was confronted by Mr. Cadwalader. Mr. Heysham observed to his learned professional brother, that he, Heysham, had just been consulted by a client, the turn-buckles of whose house had been surreptitiously removed; and asked Mr. Cadwalader what he thought was the appropriate proceeding in vindication of the client's rights. Mr. Cadwalader, in his customary kindly manner, took Mr. Heysham's arm in his own, and proceeded to walk him out Chestnut Street, delivering on the way, a learned presentation of the law of turn-buckles, beginning away back in the days of Cro. Eliz. and the black letter reports. Continuing

the stroll around Broad Street to Spruce Street, and finally reaching Mr. Cadwalader's office in South Fourth Street, Mr. Cadwalader had reached a period but midway in his ambulatory essay. No conclusion had, however, been even approached; and the two pedestrians parted, with appreciative expressions on the part of Mr. Heysham. Next day, the two lawyers happened to meet again under similar circumstances; and the same journey on foot was taken, accompanied by a resumption of the consideration of the law of turn-buckles on the part of the gifted Cadwalader. His office was again, in due course, reached, modern courts and modern expositions of applicable law having been exhaustively adverted to. But, alas! Mr. Heysham having missed two midday repasts, although inexpressibly impressed and overwhelmed by his friend's masterly contribution to the law of turn-buckles, was, nevertheless,

as much in the dark as to the precise remedy to be invoked, so far as any practical assistance Mr. Cadwalader had contributed, as Mr. Heysham was when he casually put the point of law to his friend.

Judge Cadwalader's unusually active and suggestive mind made it quite impossible for him to conduct proceedings in banc in entire accordance with judicial precedent and custom. It was his habit to constantly interrupt counsel in their arguments, with discussions of questions and points, sometimes, it must be confessed, only incidentally and remotely connected with the particular matter before the Court. The prudent and experienced advocate wisely permitted the loquacious judge to indulge in his predilection to the fullest extent. Any attempt at interference by counsel, with this protracted participation by the judge in the argument, would more than likely seriously

prejudice him with the Court. It often resulted, indeed, that a more satisfactory ruling was reached through this unique fondness of Judge Cadwalader of arguing the matter himself, counsel, practically, contributing nothing, than had the more usual methods been observed and followed.

GEORGE SHARSWOOD

It was quite the fashion, among his contemporaries, at the bar, to esteem George Sharswood as the ideal judge. Perhaps, this generous estimate was somewhat exaggerated. He was, doubtless, the superior, in certain essential qualifications of a judicial officer, to his associates on the bench; assuming such qualifications to be familiarity with legal principles and decisions. He was a patient, even-tempered judge, prompt and accurate in his rulings and an attentive listener. All his cases were carefully tried by him, and his charges to juries were admirable and impartial condensations of the law and the testimony. Yet, he was neither broad nor sympathetic, and he was without enthusiasms. The purely technical side of the law appeared to have greater attraction to

him than its comprehensive philosophic side. His judgments, as they are to be found in the Philadelphia Reports and in the Supreme Court decisions are, consequently, however ingenious and sound, neither illuminative nor profound. The character of mind of this, nevertheless, excellent man is well indicated by the statement once made by him, that there were few cases heard by him in the Supreme Court in which he could not have written a convincing opinion on either side.

Sharswood was the plainest of men, and his tastes were correspondingly simple. Politically, he was a democrat, and his partisan bias controlled his rulings in questions that arose for determination by his court during the civil war, as it did, indeed, those of his associates and fellow judges, in other tribunals, in this jurisdiction, at least, republican, as well as those of Sharswood's

faith; but he could not be classed with that bastard democratic type which abounded in the Philadelphia of his day, with its pseudo-aristocratic and absurd assumption of social and professional superiority. He was thoroughly in sympathy with the real people, but had none of the instincts of the demagogue. On and off the bench, this was palpable. If, as I happen to know, he preferred whiskey to champagne, this was one of the many indications of the genuine democratic spirit which inspired his conduct.

Sharswood's great popularity was due to his unpretentiousness, the amiability that chronic physical suffering never diminished; to his unvaryingly courteous treatment of counsel, whether prominent and successful, or otherwise; and, above these sterling attributes, as the natural outcome of the general recognition of them, to a firmly-rooted public faith in the conscientiousness and the even

and exact justice of his rulings. All this may be resumed in the statement, in which, it is true, no slight commendation is implied, that George Sharswood was a good, if not a great judge.

WOMEN LAWYERS

The female contingent at the Philadelphia bar at present is an insignificant fraction of the full membership of two thousand, more or less. Nothing derogatory to the woman lawyer is implied in the observation that she has not yet made her definite mark in this jurisdiction. Our local conservative spirit, still a potent influence in certain directions, has had its large share in discouraging the entrance of women into the profession. Not so many years ago, several of our Philadelphia courts refused, on technical grounds, to recognize woman's right to practice. This principal barrier having been removed, the doors are now open to her; and, if the signs of the times are read aright, it will not be long before she will be freely availing herself of the opportunity. She has been

for an extended period a welcome student at the Law Department of the University of Pennsylvania.

There is no good reason why a woman should not become a lawyer. In the contentions of the forum incident to jury trials, in criminal cases and in divorce issues, especially, an innate sense of delicacy may restrain her from appearing. There have, indeed, always, been those of the sterner sex whose inclinations or prejudices have kept them away from these fields of professional utility; while their success in other departments has been unquestioned and complete. Women physicians have fully overcome opposition by their achievements, at no sacrifice of delicacy or decorum; notwithstanding the fact that there is greater risk of the impairment of those essentially feminine attributes in medicine, than in the law. As general counsellors, as Orphans' Court practitioners,

and in the conduct of equity cases, there can be no doubt that properly trained women lawyers would be, and, in fact are, as legitimately successful, and in the same proportion, as their brethren.

There are, now, some two thousand women at the American bar. There have been failures, of course, in the ranks of female practitioners of law; but the majority of them have been those who undertook to make a specialty of divorce and criminal assignments. When they hold to the cleaner and more reputable business, they seem to survive and flourish. They are, not, as yet, in every jurisdiction, accorded fair and courteous treatment. They are obliged to fight their way, and it is, literally, as with men in this and other vocations, a survival of the fittest. More is apparently, demanded of a woman, at this stage of the experiment. She is still a novelty as a lawyer, and is expected to prove that her calling is sure.

In the progressive emancipated West, women have attained genuine distinction at the bar; and in Denver, Colorado, one of the most active lawyers is a woman, Miss Mary F. Lathrop, whose position and practice might well be the envy of any lawyer. Miss Lathrop is an extensively recognized specialist in probate and administrative law; and, recently, an important contested will case was decided in her favor, to which result, her comprehensive brief in support of her clients' contentions, undoubtedly, in very large measure contributed. In the essentials of femininity, grace of manner and social attractiveness, she easily holds her own in the most refined and cultured community; and the very successful career effectually negatives the theory that practising law has a tendency to unsex a woman.

In the absence of evidence to the contrary, one might be tempted to conclude, reason-

ing from the enlarged and ofttimes exaggerated sentimentality which is such a constituent part of female nature, that there were inherent difficulties in the way of women's making a practical success in the law. Every woman, it might be taken for granted, would aspire to become a more or less picturesque Portia or Nerissa. Still, while we have to reckon by the illustrious precedent of Mary Somerville, whose engrossing scientific studies and achievements lessened in no degree her capacity for the practical everyday concerns of life: so that she was as good a needlewoman, as devoted a mother and as skillful in the kitchen, as any other housewife: we can believe that a woman's intellectual powers applied to legal practice will not interfere with the attention which domestic affairs demand; nor give a one-sided aspect to her existence. There has been quite recently published a volume

containing the biography and essays of a Philadelphia woman,* whose accomplishments and conquests in unfamiliar and difficult fields of scientific inquiry, of which, perhaps the most noteworthy relate to chemistry as associated with the development of plants, won for her world-wide fame, although she died at the early age of forty-seven. These extremely learned investigations, and her other purely literary work in poetry, sketches of travel, and philosophy, did not, in any sense, disqualify her for the discharge of her household duties; and if, instead of the particular abstruse sciences to which she dedicated herself, she had applied her mind to the possibly less exacting study of the law, there is sufficient reason for believing that she would, at least, have been the professional equal of her brother, a successful member of the Philadelphia bar, now de-

*Helen Abbott Michael.

ceased. Upon the whole, the ancient aversion to the higher education of women no longer prevails. Our own Bryn Mawr, whose educational requirements and standards are more advanced than those of any other college for for women, turns out as thoroughly acceptable samples of perfect womanhood as could be desired. Some of the fair sex, it is true, are only born "to suckle fools and chronicle small beer," but, so too, a considerable part of mankind are destined from birth to be but drones and triflers.

The objection that the imperative obligations of household management forbid a woman's concerning herself with extraneous matters, is based more upon a theory than upon tangible conditions. Let it not be overlooked that an integral portion of woman's time is devoted to the shops; which, indeed, would cease to exist, without the indispensable female contingent thronging

their aisles and corridors. Besides, there is a common error in the supposition that the average lawyer's duties appropriate every hour of a long working day. In the days before the blessed advent of the type-writer, a great deal more time was necessarily required for merely formal matters, than, under modern methods and with other modern labor saving devices, such as the telephone, is now essential. Yet, even in Dr. Johnson's more deliberate day, as that observing person noted,—and what was then an accurate commentary is at least, none the less so at the present period—: "it is wonderful when a calculation is made, how little the mind is actually employed in the discharge of any profession. The best employed lawyer has his mind at work but for a small proportion of his time; a great deal of his occupation is purely mechanical."

As long as women are interested in the

objects and results of litigation, because of the personal or real property rights with which they are invested, and as long as they are available, competent and materially valuable as witnesses in courts and legal proceedings, generally, their actual presence before courts and juries is indispensable, and therefore, proper. And the issue as to the propriety or unbecomingness of their appearance on such occasions, has never been raised. What difference can there be, therefore, between this unavoidable identification of the sex with legal contentions in this unexceptionable capacity, and the association of the professional sisterhood with the conduct, itself, of litigation?

FORENSIC ORATORY

The forensic orator has, obviously, become a traditional person. In the inaccurate and exuberant language of the callow and hysterical newspaper reporter, he is now and then chronicled as having appeared with much credit and glory to himself, in some legal contention of more than ordinary notoriety. Impartial criticism, however, feels itself, in conscience, compelled to determine that the very best of such professional achievements no longer attain the high level of what was done long since by Erskine, Curran, Brougham, Webster, Binney, Pinkney, and the countless others of even comparatively recent times.

Speaking from personal observation, at least, so far as Philadelphia is concerned, this style of public speech has been out of

fashion for over a score of years; and even for some time before, there was but a corporal's guard of those who successfully cultivated the art of eloquent utterance before juries. The late Mr. Justice M. Russell Thayer was, it has always seemed to me, our most accomplished speaker on such occasions. There were others, such as Lewis C. Cassidy, fervent, dignified, imposing and graceful, too; John P. O'Neill, a cultivated gentleman with a Trinity College, Dublin, degree, a delightfully fluent speaker, gifted with a handsome winning presence, possessing an educated Irishman's thorough command of the very best English, and a fascinating delivery; Theodore Cuyler, from whose charmed lips fell, spontaneously, the choicest diction it has been my good fortune to hear in spoken words; and there were others their worthy compeers; all forgotten as much as they.

Yet, Mr. Cuyler not even excepted, Judge Thayer, considered as a forensic orator, was endowed with greater attainments, especially in respect of general scholarship, than any of his professional oratorical contemporaries. In the prime of his manhood, and of his busy professional career, his superb voice, clear, rich, sonorous and most musical as it was, his matchless Virginia inheritance, conjoined to his fine handsome presence, all helped to make him, far and away, the closest approach in our day, to the old time forensic pleader. His greatest achievement in this direction was in his defence of Thomas Washington Smith, indicted and tried about the year 1868 for the murder of James Carter, at the St. Lawrence Hotel on Chestnut Street in Philadelphia. Were it not for the melancholy fact that the greatest lawyer's fame is as evanescent as the summer cloud, I should not hesitate to

call Mr. Thayer's summing up at this trial, historical. It embodied, I believe, the first presentation of the emotional insanity defence in this country. At all events it had never been so cogently urged with such wealth of legal learning as by Mr. Thayer on this occasion. The essential technical portion of this great address was of a pattern with the rest of Thayer's legal work, abundant examples of which are found in the state and county reports. The distinctly oratorical part of this summing up is without its superior in the performances in the courts of Pennsylvania since the period of its delivery, at least. This apparently partial estimate long maintained, has been emphatically confirmed by the re-perusal of the contemporarily printed copy. This recent consideration of so splendid an effort substantiates the assertion concerning the disappearance of forensic oratory. Surely,

nothing akin to it, is ever heard in our present day tribunals.

It is not forgotten that among Mr. Thayer's contemporaries were orators who had acquired great repute for their *nisi prius* efforts. Conspicuous among these was David Paul Brown, who, had, by the way, associated Mr. Thayer with himself, as junior counsel in the case referred to of Commonwealth vs. Smith. However, Mr. Brown had by no means, either the legal or general lore of Mr. Thayer. Mr. Brown's style of addressing juries, truth to tell, was pompous and ponderous. There was more of the actor than the forensic orator in his performances. I doubt that he ever reached a jury through the convictions of its members. He had, with a really meagre equipment, acquired a popular reputation as a great orator, and in his day, the prestige accompanying this preposterous estimate of him, had, undoubtedly, great influence with

juries. Such a theatrical *poseur* as Brown with his dandyfied manners, his conspicuously displayed gold snuff-box, the elaborate costume with which he clothed his bejewelled person, and his stilted and deliberate utterance, might amuse present day audiences and juries, but he would neither seriously entertain or control.

Mr. Benjamin Harris Brewster was, with justice, entitled to share in the distinction which Judge Thayer enjoyed and deserved. Brewster had a beautiful voice, the tones of which he modulated with exquisite grace, and his language betokened the student and scholar that he was. His standard was that of the best of the great court orators who had preceded his period; and he preserved and displayed, on occasion, the best traditions of the old school. It was always a delight to hear him. Yet, I cannot but reflect that his inordinate personal vanity militated against

his complete success as a forensic speaker. It was too obvious that he found an intense satisfaction in hearing himself talk; as, perhaps, why should he not. Still, this was a weakness and a defect; and because of it, he was, too often, tempted to become discursive and prolix to a tedious and dreary extent. More than one cause in which he was concerned suffered defeat because of this fault.

Mr. Brewster was a lawyer of high attainments in all branches, and he rendered distinguished public service as Attorney General of Pennsylvania, and as Attorney General of the United States under President Arthur. Although not directly germane to the subject, it is impossible to resist the temptation to advert to Mr. Brewster's series of brilliant addresses on the occasion of the opening of the Pacific Railroad. He was the chosen orator of the Congressional Committee. As occasional speeches, I recall nothing su-

perior. Each effort was a model of its kind. While no two were alike, they were, without exception, eloquent, sensible, original, philosophic and appropriate; and on a high patriotic plane. They excited intense national interest on their publication in the newspapers of the country. I am much surprised to find no mention of them whatever in Mr. Savidge's interesting Life of Mr. Brewster.

Daniel Dougherty enjoyed some fairly merited distinction, because of his evident ambition to perpetuate the glories of forensic oratory. His salient defect was his superficiality, the consequence of his inadequate scholarship. Mr. Dougherty was not a well-trained lawyer. His delightfully genial disposition and his inherited Hibernian fluency, as well as his handsome person, were potent elements, nevertheless, in securing the sympathy and favor of the numerous juries be-

fore whom, in the course of a very prosperous practice, he had occasion to appear. During the latter period of his life he was much in demand as a popular lecturer in various American cities. He was a man of high character, sincere and upright in all the relations of life. This brief record of his career would be incomplete without mention of his enkindling speech in nominating Mr. Cleveland for President, and, as well, of his success as a post-prandial speaker. In this most difficult art, Mr. Dougherty was, conspicuously, a master.

Furman Sheppard, a great lawyer in the most extended sense of the title, was, as well, a most accomplished forensic orator. His equipment as such comprised a strikingly impressive presence and sonorous voice—absolutely indispensable attributes of the perfect public speaker—and, as intimated, excellent legal abilities, which his splendid

intellect made it not difficult for him to foster and develop. Mr. Sheppard, thus liberally endowed, was, beyond all question, one of our foremost District Attorneys. His record of efficient administration of the important duties of that high office is among the most honorable annals of the Philadelphia bar.

William Henry Rawle only lacked the outward personal requirements, physical and vocal, of the orator. The gift was innate. His magnificent effort on behalf of the plaintiff in the celebrated St. Mark's Church Bell suit, justly created a profound and lasting impression. It is to be found in the privately printed report of the proceeding, and richly repays perusal. It abounds in skilful expositions of the law; and in wit, eloquence and poetry, in equal measure.

With a command of graceful speech, an attractive presence, a melodious organ, and a facility in rapid mental analysis, Frederick

Carroll Brewster, had his inclinations led him in that direction, would have had no superior as a court orator. No doubt the practical side of professional life appealed to him too strongly for him to be tempted to excel in oratorical display. He was devoid of personal vanity and desire for applause, and his victories were the result of direct heart to heart talks with juries, rather than of eloquent appeals to them. Surely, however, he had, of all his contemporaries, the essential qualifications in richly abundant measure; and which, had he deemed it worth the while, would have won for him oratorical distinction. Doubtless, with the acute and unerring perception which was a marked characteristic of his, in all the varied concerns of his strenuous life, he realized, also that the day of forensic oratory had passed. The conditions, public and professional, had been undergoing a complete and

radical change in his day and generation. Greater rapidity in the conduct of causes, inseparably incident to the pressure of business, had become an essential feature of the administration of justice. It had come to pass that the average juryman, however great his delight in effective occasional addresses, would become impatient at any presentation by an advocate of his side of a cause that did not confine itself, without exuberance of speech, to the material facts of the issue to the determination of which he was summoned. And this was the condition of mind of the ordinary auditor. In the earlier and more deliberate time, people were wont to throng to court rooms to listen to favorite speakers, solely for the pleasure of hearing them. The sense of cynical humor, which is becoming, more and more, a national characteristic, has had much to do with the discontinuance of forensic oratory. What would

have profoundly impressed our people as late as two generations ago, might, now, contribute to their amusement; although it would, more likely, rather arouse their impatience than entertain them. However this may be, there is no question that as a thing of practical utility, forensic oratory, whatever efficacious service it may once have rendered, has gone, never to return. A strikingly convincing proof of this view, if any be required, is afforded by a well-written paper by one of the younger jurymen in the Thaw murder trial in New York. This clever writer observed that, beyond the furnishing of passing, superficial, evanescent entertainment, the merely oratorical displays of counsel had no effect whatever upon the jury. The fundamental purpose of each member of the jury, to which it rigidly adhered—the writer, in substance, said—was to reach a conclusion upon the material

facts as controlled by the law given to them by the Court.

Had Henry Armitt Brown been more actively identified with purely professional labors, there can be no question that he would have effectively revived the best traditions of forensic eloquence. He was the foremost orator of his day, of which claim his posthumously published addresses are the amply sufficient proof. None of his successors possessed, to the extent that he did, the variety and abundance of qualifications requisite for the complete orator. The vibrant, manly voice, attuned, according to need, to perfect modulations, the fascinating presence, these—it cannot too often be insisted upon—indispensable natural gifts, he had in richer allowance than any Pennsylvanian, at least, of his own or subsequent times. His public efforts fully speak for themselves and challenge comparison with

any similar productions. Recalling all this, the conviction of all who heard him must be emphasized, that Henry Armitt Brown, prematurely departing as he did at the age of thirty-four years, would have been easily chief in forensic contests had it been his lot to participate in them.

It would be censurable neglect to omit from these memories of accomplished advocates, enthusiastic mention of the lamented Rufus E. Shapley. In the later years of his active practice, Mr. Shapley's appearances before juries had been practically discontinued. His brethren of the present generation were thus deprived of the very great delight of hearing a consummately brilliant and forcible forensic gladiator. His imposing appearance, his resonant voice, his complete mastery of expressive English, and his alert and acute legal mind, gave him conspicuous and conceded advantage in a jury

trial, resulting in some of the most famous of *nisi prius* triumphs. In particular, there is remembered his strong and brilliant summing up for Mayor Stokley, in a notorious but now forgotten action for damages brought against that official by a policeman. Mr. Shapley's effort on this occasion was worthy of any forum.

Philadelphia orators, outside of the courts, still continue to impress and enlighten. Hampton L. Carson and James M. Beck, happily for us, of our bar and of our times, have gained national distinction through their most meritorious public performances. It is possible that these unexcelled public speakers, (so probably, did Henry Armitt Brown forecast the situation), have read accurately, and in time, the signs in the professional firmament, and wisely concluded *not* "to give" to courts and juries "what was meant for mankind."

DAVID W. SELLERS

Among the remarkable men and great lawyers it has been my privilege to know, I can recall no one more endearingly attractive than David W. Sellers. He was, from every point of view, a distinctively unique personality. He was a whole-souled, genuine human being, whose instincts were liberal, manly and sincere. Meeting with him, whether in court, in his busy office, or on the public highway, brought with it, as it were, the invigoration of a wholesome breeze in springtime. To intensify the metaphor, the atmosphere of his vigorous presence insensibly communicated the delightful contagion of his hearty interest in all that was best and most inspiring in the world of men. He had such a catholic breadth of view, and such an abiding sympathetic concern for the

affairs of others, that even in memory, years after his keenly regretted departure, there is an intense consciousness of his existence, still. It seems that it was but yesterday that he left us. Such sterling characters do not leave this life without leaving an indelibly ineffaceable impress on the blessed circle of the survivors. Doubtless, it was impossible for him to escape repining, and it is more than likely that he had his intervals of sadness and depression. But, manly soul that he was, he never "wore his heart upon his sleeve for daws to peck at." Seemingly, he had himself under such perfect control, that you were impelled to the belief, in sure reliance, in his case, upon appearances, that the philosophic acceptance of life as a sphere to be only contentedly cheerful in, was a fundamental principle with him. Mr. Sellers was too candid, too straightforward, despite his courageous maintenance

of his convictions, in public and in private, and too unaffectedly unassuming, to be what is known as a popular lawyer. His phenomenal endowment in every important branch of the law qualified him, with his splendid integrity, for public office. Yet, beyond an assistant city solicitorship in the early part of his professional life, it did not fall to his lot to discharge any public function. In this regard the community was surely a loser. To what extent may be conjectured, in the light of his inestimable services as counsel for the Pennsylvania Railroad Company; in which distinguished employment his triumphs, as betokened by the published reports of the numerous litigations in this behalf, with which he was concerned, as the representative of that corporation give us the measure of his capacity. In the preparation and presentation of his briefs in the appellate courts, it

was his custom to avoid embarrassing those tribunals with a multitude or a multiplicity of points, confounding and confusing the important with the comparatively unimportant. Thus it was that he invariably selected the salient points of his client's cause, and impressively elaborated them; which feature, I am confident, is always welcome to willing and grateful ears too frequently wearied by advocates wanting in the sound judgment and intelligent discretion that marked our friend's efforts in the manner and direction indicated. Here Mr. Sellers, in this wise elimination of non-essentials, furnished substantial confirmation of the truth of the observation of that great jurist, Benjamin Robbins Curtis, that the most important cause that could ever come before an appellate court might be adequately argued in thirty minutes. Not every tyro may presume to adopt this venturesome method. Only

with a genius like Mr. Sellers is it possible for it to be effectual.

In the social assemblage of his friends Mr. Sellers was, admittedly, quite without a peer, with his exuberant spirits and inexhaustible fund of rare humor. He was the very best of story-tellers. In the relation of his numerous anecdotes he displayed great tact in avoiding the besetting fault of the majority of raconteurs, of too much elaboration. When Shakspere said that "a jest's prosperity lies in the ear of him that hears, never in the tongue of him that tells it," he must have had in mind the discreetly condensed story. Of another shortcoming of entertainers of this class, Mr. Sellers' innate gentlemanly modesty made it impossible for him to be accused. There was nothing akin to the actor's vanity in his recitals. He was as concise as he was clever, and the point was palpable when promptly reached. No

anti-climax spoiled any of his capital stories. Let me record several, from his apparently inexhaustible budget.

Mr. Sellers and the Honorable Jeremiah S. Black were opposed to each other in the argument of a cause before the Dauphin County Court at Harrisburg. Upon the conclusion of their respective professional efforts, the afternoon being that of a pleasant day in the late spring, Judge Black suggested to Mr. Sellers that, as perhaps Mr. Sellers had no particular desire to return to dine at the hotel, and in view of the delightful weather, it might be more agreeable to take a stroll about the city. Judge Black further proposed that they should, at the end of their walk, take their meals at a boarding-house which he himself was accustomed to patronize when in Harrisburg, on account of the excellent cuisine for which the house was renowned; and which Judge Black en-

thusiastically commended. Enticed by the double temptation of an afternoon of Judge Black's fascinating company and the certain prospect of a superior repast afterwards, Mr. Sellers gladly consented. The streets of Harrisburg had been thoroughly traversed by the two pedestrians, and the dinner hour having been reached, Mr. Sellers ventured to interrupt the brilliant flow of his companion's engaging talk, with a suggestion of the inner man's needs. Judge Black hesitated an instant, looking up one street and down another, collected his thoughts, and, in an effort to stimulate his memory as to the exact locality of the boarding-house, remarked: "If I remember rightly, it is down this street." This thoroughfare was accordingly followed for some distance, only to result in mutual disappointment. Then said the Judge: "I have made a mistake. Now, I recall, it is on such a street." Thither

therefore, journeyed the confident guide and his now wearied and famished companion. But, alas! disappointment was again their portion; and Judge Black, perplexed, with a discouraged glance about him, at length observed: "Oh! I have been confounding places. The house I was thinking of is in Baltimore!"

In an action of damages against the city of Philadelphia for injuries resulting in the death of one Christian Weller, occasioned by the defective condition of a highway, I was counsel for the widow plaintiff. Mr. Sellers appeared for the city. There was a verdict for the plaintiff and the usual motion and reasons for a new trial. What happened at this juncture, although no part of the record, was told to me by Mr. Sellers, long afterward. He was visited at his office, one afternoon, by a stranger, a German, who introduced himself as a friend of the widow.

The visitor then unfolded this remarkable scheme: Mrs. Weller had an admirer who was willing to marry her, if what would practically be her marriage portion, namely, the amount of the verdict in the suit, was apparently assured to her. But, as the mutual friend proceeded to observe, the ardent suitor had heard of the city's attempt to set aside the verdict, and the fervor of his wooing had, accordingly, sensibly abated. There was great danger of the marriage not being consummated; and the practical purpose of the friend's call upon the assistant city solicitor, was to secure his valuable intervention against such a dire contingency. And this was the ingenious plan which he detailed: The motion and reasons for a new trial should be temporarily taken out of the files and erased from the court docket, so that the impression might be created that the suit was at an end, and the widow certain to

get her money from the city. Thus, lured into a feeling of false security, the suitor would promptly wed the widow; and, after that, as the mutual friend, in cold blood, suggested, the record could be restored to its original and proper condition. Needless to add, Mr. Sellers declined to be a party to such an extraordinary undertaking, and the disconsolate and unconsciously dishonest negotiator departed.

Mr. Sellers was wont to repeat, with characteristic unction, his peculiar experience with another visitor, concerning one of the many suits for damages tried by Mr. Sellers on behalf of the Pennsylvania Railroad Company. This action had been brought by an individual, Polish by nationality and Israelite in faith, and was based upon his claim for compensation for his alleged unlawful ejection from a passenger train because of his attempting to travel on an

"expired" ticket. The plaintiff was represented at the trial by a very prominent attorney, justly celebrated, and feared by his opponents for his magnetic influence upon juries. There was a sufficient defence established, and the railroad company was fairly entitled to a verdict. In his summing up, however, the ingenious counsel for the plaintiff, as Mr Sellers was accustomed to relate, metaphorically waved the American flag over the jury, and eloquently and feelingly dwelt upon the fact—technically immaterial and irrelevant, though, in the latitude that is sometimes allowed on such occasions, not objected to by Mr. Sellers—that this country was the home of the oppressed of all nations; that the poor proscribed Jew had equal rights with the President; that (passionately beating his breast), he himself, the great orator, had been aforetime scorned and contemned for his religious opinions;

but, thank God! that day was past; and so on and so on, in this impassioned strain, with the result that the susceptible jury brought in a verdict of four hundred dollars for the plaintiff. Upon Mr. Sellers' advice, notwithstanding the palpable injustice of the verdict, the company accepted it. As juries are in the main constituted, with the too frequent hopeless prejudice against corporations, a new trial might, probably, with so skilful and plausible an advocate as the plaintiff's counsel, have resulted in heavier damages. So there was a settlement for the amount of the verdict and costs; and the cause was dismissed by Mr. Sellers from his mind.

Several months after this definite conclusion of the litigation, there appeared in the office of Mr. Sellers, an apparent stranger, who recalled himself to the lawyer, as the victorious plaintiff himself; and he informed Mr. Sellers that he desired to talk with him

about the case. An interview of the very peculiar character proposed was, naturally, declined by Mr. Sellers. The individual was also advised that any discussion of the matter would be grossly improper and not to be thought of, and that the man's counsel, who was easily accessible, was the only one to whom he should address himself. But the man obstinately persisted in his request, despite Mr. Sellers' refusal and rebuke, and referred to a highly important document which he said he had brought with him, and which he wished to submit to Mr. Sellers' inspection. Annoyed beyond endurance by the man's importunity, and realizing from his imperturbable and determined attitude that ordinary methods for securing relief from unwelcome callers would be of no avail in such an emergency, Mr. Sellers despairingly consented to take a mere cursory glance at the paper, without in any way

commenting upon it, and upon the positive promise of the man that immediately after such silent examination, he would leave the office. Thereupon, the mysterious writing was, with due solemnity, produced and shown to Mr. Sellers. This was, practically, the substance of it:

Adolph Skupinski (let him be so designated)

To

——— ——— Dr.

18—		
May —.	To professional services in the case of Skupinski vs. Penna. R. R. Co.,	$1,000.00
	By amount of verdict and costs recovered,	448.50
	To balance due,	$541.50

JOHN DOLMAN

One of the most interesting of contemporary practitioners was the late John Dolman. His was an extraordinary career, indeed, and worthy of an enduring chronicle. He was always industriously engaged in his professional and public work, during the active years of his useful life in Philadelphia: and was doubtless, disinclined, chiefly, by reason of his genuine unaffected modesty, to jot down his experiences for the benefit of those that should follow him. Had he done so, we should have, I am sure, another attractive contribution to that most fascinating department of literature, memoirs; and with it, rare and delightful entertainment. For Mr. Dolman had been by turns, actor, sailor, soldier, lawyer, court clerk, and municipal legislator. In each of these activities he was, indisputably, superior. My early recol-

lections of the old days of Wheatley and Drew's management of the Arch Street Theatre, embrace the sterling performances of Mr. Dolman in Iago and other Shaksperian parts, Hawkshaw, the detective, in Tom Taylor's "Still Waters Run Deep", and is a varied line of comedy, melodrama and tragedy. He is vividly before me still, in these impersonations. They were meritorious efforts, all of them. His reading charmed my youthful ears, with its clearness and its sonority. He was a leading member of an excellent stock company, to which the late Mrs. John Drew also belonged; and the diversity of parts successfully assumed by Mr. Dolman sufficiently attest his versatility. He much surprised me by the statement made to me a few years before his death, about ten years ago, that he had never been inside of a theatre since the termination of his comparatively brief dramatic career.

This, he went on to remark, was not because of any principle or prejudice in the matter, but solely for the reason that his domestic and professional duties developed a partiality for evenings at home, which completely supplanted any fancy he might originally have cherished for the "play." His identification with the stage was after all, it appears, but a means of providing himself with a livelihood when preparing for the legal profession. Mr. Dolman came to the Philadelphia bar about 1861. Not long after his admission, he was appointed to the responsible position of court clerk of the old District Court of Philadelphia county, abolished by the constitution of 1873; although he resigned his clerkship in consequence of a rapidly growing practice, long before the discontinuance of that tribunal. Utterly free of anything like vanity, he made no claim to being a forensic orator; yet his dramatic training was of ef-

fective service in his addresses in court. He was invariably impressive and convincing before juries, and his victories were numerous and notable.

I have among my papers the certificate of my admission to the District Court during Mr. Dolman's term of service as clerk. It is all in his own handwriting. His constitutional thoroughness is exhibited in the beautiful script of this certificate. It is artistic penmanship, indeed; and of which the most skilful engrosser would be proud.

Mr. Dolman was a native of western New York state. Prior to the commencement of the Mexican War, in the spring of 1846, he entered the United States Service as a marine, and actively assisted in the great historic event of the occupation of California by the national forces, symbolized by the raising of the flag by Commodore Sloat, at San Francisco, July 9, 1846. Subsequently,

young Dolman enlisted for military service in the same war, in several of the movements and engagements of which he participated as a private soldier.

For a number of years, while Mr. Dolman was one of our busiest and most efficient lawyers, he still found time to discharge with great credit to himself and with inestimable advantage to the City of Philadelphia, the exacting duties of Select Councilman of the First Ward. In the municipal service he displayed the same painstaking and intelligent devotion to his work that was manifested in his achievements at the bar; and in which service, Mr. Dolman can be best portrayed, as being as unpretentious as he was conscientious. In large and unstinted measure, these were the predominant features of his character. Higher praise can be accorded to no man.

HORATIO HUBBELL

Horatio Hubbell was a character. The arbitrary procrustean adjustment by which professional identity is now merged in law-firms, with their extensive clerical and other business appendages, has forever negatived the possibility of the monotony of the lawyer's existence being lessened or relieved by such individualism as was embodied in Mr. Hubbell. Hubbell was a gifted, but eccentric personage. Of excellent forbears, with superior early advantages, socially and educationally, life, let it in all charity not be attempted to determine wherefore, had not gone well with him. Possibly, his own thoroughly unpractical nature had its share in the untoward result. As the outcome of it all, he was, although the owner of a kindly, generous, sympathetic heart—and such are

the too familiar contradictions and paradoxes of our poor human life—the most cross-grained, irritable person that ever came before a bench of judges. He had, obviously, cultivated the art of being disagreeable to such an extent, that it was, clearly, a real luxury for him to gratify the perverse second nature which had grown into an instinct to be uninterruptedly unamiable in his intercourse with his brethren and with the judges. A frequent manifestation of it was his savage expression of dissatisfaction, when a decision was rendered against him. It was not at all in words, but there was a snort or a growl which imparted more than the most vigorous every-day speech, though stenography was inadequate to reproduce it; and even had this been possible, it is doubtful if the most intolerant and least indulgent of judges would have had the heart to have

thereby secured material for disciplining the surly counsellor for contempt.

Mr. Hubbell had a fairly good legal mind, though system was no part of his nature. As a referee or as master, for which positions he was, at times, and all things considered, quite properly selected, one looked for, and obtained, in the procrastinated end, satisfactory determinations. Nevertheless, he was often the despair of counsel appearing before him. He appointed meetings at which he capriciously neglected to be present; and his demeanor and methods at such meetings as he held, would have been amusing if they had not been vexatious. His filed reports in such references were marvels of clerical shortcomings. Among the records from the old court offices there is doubtless one of those legal curiosities, a type of many of its fellows. The testimony and the opinion are entirely in Mr. Hubbell's

own extraordinary handwriting, a vast chaotic mass of hieroglyphic matter, on sheets of paper of various shapes, sizes and colors, insufficiently paged and regardless of numerical sequence, and in divers kinds and hues of ink; all of it tied together in a most slovenly fashion, by red tape. Counsel who had not prudently obtained, in time, their own memoranda of the testimony, would have derived little benefit from Mr. Hubbell's undecipherable scrawl.

MacGREGOR J. MITCHESON

There can be no more lawyers like MacGregor J. Mitcheson. Here is indeed a vanished type, to which altered conditions render a return as impossible, as in the animal kingdom, the plesiosaurus. And yet, singularly enough, he lived and practiced at the bar of Philadelphia, before his fitting and appropriate time. He was but an anachronism that, with methods more in accord with those of the busy, unconventional, unceremonial period of which Theodore Roosevelt, that "viking in a shirt collar," is the shining exemplar, would have found more honor and acceptance than was vouchsafed him, in his more deliberate and severely conventional day.

I have been informed that a prominent Philadelphia representative on the Supreme

Bench of this State, has said that Mitcheson was one of the best lawyers of his epoch. This high tribute to Mitcheson's merit is justified, if the estimate is based upon his combative qualifications. There never was an advocate who fought harder, or who merged his excessively egotistic personality more completely in that of his client. In another important sense was he entitled to great praise. He had a ready and instinctive perception of every essential fact in a case, in all its bearings, and a fine gift of memory for retaining them, in season and out of season. Thus he was able to rely upon his recollection rather than his notes, which were only taken for prudential reasons, looking to bills of exceptions. He was not fond of books; of law books, especially. He had an aversion, amounting to an idiosyncrasy, to information to be gained by himself from the printed page. Nevertheless, he was quite

an adept in assimilating material knowledge thus obtained by others; and if he did not always grasp the particular principle or doctrine, in its accuracy or its amplitude, he was, and sometimes to an amusing extent, adroit in utilizing the information thus vicariously secured, to greater advantage than would, under similar conditions, many a more technically learned brother.

MacGregor Mitcheson—it seems like a brutal amputation to bisect the sounding appellation—was the very incarnation of nervous activity. The life contemplative was an unknown sphere to him; and he was the most persistent lawyer that ever laid siege to courts and juries. Like the proverbial American, he did not always know when he was whipped, in his frantically passionate eagerness to win. He would return again and again to a hopeless struggle, especially with courts in banc, and very often

in tears, too, and genuine ones at that, with the desperate energy of a pugilist. This is, after all, the just conception of the advocate, and which is not, perhaps, as much exaggerated, as to more phlegmatic and unpartisan natures might appear. "By their fruits ye shall know them;" and his numerous professional achievements fully justified the frequent eccentric, but never reprehensible, performances by which they were secured.

GEORGE W. THORN

There has been no more rapid and complete change in characteristic features in any neighborhood of the City of Philadelphia, than that which speedily overcame the region comprised in Fifth street, especially between Chestnut and Spruce streets. Even from colonial days, and until the shifting of the legal centre to the vicinity of the City Hall, the indicated locality was practically surrendered to the profession. It abounded in old-fashioned but comfortable law offices, occupied by many of the most prominent members of the bar, notably, Edward Olmsted, George W. Biddle, William B. Reed, Joseph A. Clay, Horatio Gates Jones, Charles Ingersoll, Henry M. Dechert, and Rufus E. Shapley. Farther north, above Race street, was the residence and office of George W.

Thorn, a sterling character in every sense. Grateful memory assists in conjuring up a picture of the interior of Mr. Thorn's office. It was the counterpart and type of the well-equipped and well-conducted professional interior of the period. It has wholly gone out of fashion, for no conceivable good reason. Lawyers now huddle together in characterless sky-scrapers, no doubt to the delight of those contemporary evolutionists who exalt the "group" at the expense of its members. Individualism made such lawyers as Mr. Thorn possible. Under existing conditions, he would simply be impossible. Perhaps there will be no division of opinion, that herein is cause for genuine regret.

Mr. Thorn was a bachelor of very simple tastes, although he was very fond of good music, and was a regular attendant, as a stockholder, in the performances in the Academy of Music. His household affairs

were conducted by an unmarried sister. His offices comprised the "parlors" of his plain, but substantial and commodious dwelling. The walls of these offices were crowded with a fine law library, on very simple pine shelving. The furniture and general equipment were as unostentatious as the proprietor himself; and the whole environment had quite a flavor of its own, bespeaking, instantly, to the intelligent observer, the workshop of a practitioner profoundly versed in the learning of his profession, and an advocate and adviser equal to every call upon his varied activities. Admittedly, you are duly impressed with a sense of the "business" importance of the present suite of law offices, but there is lacking the dignified and purely professional character of the class of offices, I endeavor to describe.

The neighborhood of Mr. Thorn's office-

residence was not socially noteworthy, but it had a thoroughly decent and solid Northern Liberties atmosphere of its own; and that signifies much to a genuine Philadelphian; not, necessarily, the imitative specimen who has dwelt all his life on the "main line," but the citizen whose associations and memories go back at least to "consolidation." In that wholly clean, respectable section, where conservative adherence to locality, for generations, was a marked and commendable attribute of its residents, Mr. Thorn was born and passed his life. He was as amiable and refined and courteous as it is within the power of a man to be; and he went from a brickyard to a law office. His great natural parts, his excellent analytical mind and model character soon qualified him for the best service at the bar which distinguished his career.

Mr. Thorn was a man of middle stature,

spare of form and feature, with a fine intellectual head, an aquiline nose, a ruddy complexion, and the keenest of blue eyes. His habitual expression and demeanor unmistakably betokened sincerity, promptness and accuracy of apprehension, and unaffected and spontaneous geniality; in a word, mental and moral honesty and vigor of the highest class. It would be a very imperfect estimate of Mr. Thorn which neglected mention of his beautiful modesty. He was entirely devoid of vanity. These admirable traits did not, however, unfavorably affect his courage and self-confidence in the fulfilment of his obligations as an advocate. The wealth of common sense, which was his priceless inheritance as a son of the people, and his soundness as a lawyer, made him the most trustworthy of counsellors, as they stood him, in efficient stead, in his work before courts and juries. A

convincing illustration of the simple modesty of his character was exhibited when, upon his being proposed as a judicial candidate—and on the bench such a man could have had no superior—he confessed to me that he contemplated, with fear and trembling, the assumption of the responsibilities incident to a conscientious discharge of such a public duty. He would not, therefore, allow his name to be used. A close intimacy existed between himself and the late Judge Hare, and they were often seen, of afternoons, in the saddle, in Fairmount Park.

Personally, with every young lawyer whose friendship with Mr. Thorn was of inestimably valuable professional advantage, I shall not cease to revere his memory. A good man and lawyer is, we know, by the world and the community, very quickly forgotten. Yet there is immeasurable comfort

in the reflection that his memory actively survives with those fortunate ones whose lives he has richly benefited. It was my inexpressibly good fortune to frequently spend with him the too brief fortnight of a summer holiday which he allowed himself, in the fascinating sport of sheepshead fishing at Long Beach, New Jersey, the oldest resort on the coast, and a favorite with Judge Allison, that superb lawyer Henry S. Hagert, David W. Sellers, Thompson Westcott, G. Harry Davis, Richard P. White, the most formidable jury lawyer of his time, and other eminent legal contemporaries. Life has no happier retrospect than that which accompanies the recollection of those memorable and delightful trips. Day after day, in a fishing boat on Tuckerton Bay, I was favored by Mr. Thorn's comments on law, man and matters. From the overflowing storehouse of his splendid memory, he en-

tertained me, hour upon hour, with the graphic and, of course, quite impersonal, relation of his manifold reminiscences. My sole regret is that I was not enough of a Boswell or Eckermann to have then and there made permanent record of what was so worthy of preservation. This excellent lawyer and very lovable man lived to a good old age, and was continuously engaged in a most remunerative practice; and he was thus able to leave to his heirs, a large estate wholly, as may be inferred, of his own creation.

EDWARD HOPPER

One or two samples of the humor of Edward Hopper to be found on these pages, should not create an impression that he was, primarily, a wit. He was, indeed, a most amiable man, and of a very cheerful disposition; and his genial pleasantry was but the outward manifestation of such a sunny temperament. His practice was large, and correspondingly exacting; and his life was, necessarily, a serious one. According to his deserts, he stood very high in the profession, and he had a goodly share of the legal affairs of his brethren in the Society of Friends, of which he was a conspicuous and consistent member. The period of his professional activity embraced the years immediately preceding the Civil War, and with a few other lawyers, such as George H. Earle,

William S. Peirce, and Charles Gibbons, he was closely identified with the anti-slavery movement. The championship of so desperate and so unpopular a cause demanded physical, no less than moral courage on the part of its advocates. The bar, as a body, conservatively gave it the cold shoulder, and Mr. Hopper and his associates were, in truth, the victims, frequently, of positively uncivil treatment at the hands of their brother lawyers. In the Passmore Williamson case, notably, Mr. Hopper encountered public and professional obloquy at every step of that historic cause.

In David Paul Brown's "Forum," there is a fac-simile of the clear and sensible handwriting of Edward D. Ingraham, containing this sentiment: "to refute the common slander of the handwriting of lawyers." Mr. Hopper's own manuscript was, likewise, admirably distinct and legible, like

that of Joseph B. Townsend, William B. Reed, Judge Sharswood and numerous others; bringing forcibly to mind, Gellert's advice to his Leipzig students, reported by Goethe, that "a good handwriting led to a good style." Mr. Hopper's minutes as the Secretary of the Law Association for a number of years were, invariably, from his own hand, and they bear potent testimony to his superior penmanship. In this type-writing epoch, it is difficult to say how lawyers write, if they write at all. The personally written communication has, practically, disappeared. In this sense, too, the individual has been eliminated by the machine; and in view of its certain permanent substitution for old-fashioned methods, it is plainly apparent that the handwriting expert will soon be without a vocation.

A very sufficient proof of Edward Hopper's prominence as a lawyer is afforded in

the circumstance that his very commodious offices on Arch street below Eighth street, were always filled with students. And it is evidence of his thorough devotion to every branch of his calling, that the contingent of successful lawyers who were favored by his excellent training, has been such a large one. Among them are recalled: Michael Arnold, William C. Hannis, E. Hunn Hanson, George M. Troutman, Joseph R. Rhoads, and Ellis D. Williams.

MINIATURES

Notwithstanding that to the expert eye, no two lawyers are alike, it is, nevertheless, difficult to make biographical sketches of one's professional brethren, without insensibly becoming monotonous, despite every effort in avoidance. Like those remarkable productions to be found on the walls of the Law Association, one portrait is very apt to look like the other. As to these corporate heirlooms, it is to be observed that the modern canon accepted by some of the most eminent in that branch of art, is, that a portrait need not, necessarily, be a resemblance, but that it must represent, primarily and absolutely, a human being. We are told by Messrs. Sargent and Chase, for instance, that it will signify not, a hundred years hence, whether the

reproduction in oil on canvas of an individual, is a veritable likeness or not. The condition that will alone determine its enduring merit is that a real, live, mortal person confronts us from the frame which confines it. Tried by this test, posterity will experience no embarrassment, in forming an estimate of the Law Association's art gallery. No impartial contemporary critic, in the most indulgent mood, is likely to concede that, saving a few illustrious exceptions, there is much actual resemblance in these portraits; the "counterfeit presentments" are but few in number; and the vital human essence is lamentably lacking in nearly all of them. There will be no controversy, in the years to come, as to whether any one of them was the work of Gilbert Stuart or Rembrandt Peale, or of any of the very capable portrait painters of our own day, none

of whom, it is justly matter for regret, are represented in the Law Association.

From this, what some amiable souls may, possibly, esteem a captious digression, it is a far cry to some fugitive notes of departed brother lawyers, made in the desperate hope of preventing their being completely forgotten.

Lewis Waln Smith, who died nearly a quarter of a century ago, after a short, but brilliant professional life, was an invalid from childhood. With wonderful courage, he fought his mortal ailment to the end; and, handicapped as he was, achieved such a success at the bar, that the obituary meeting in his honor was presided over by Judge Allison, and such eminent lawyers as Wayne MacVeagh, Richard L. Ashhurst, Hon. William A. Porter, William McMichael, William Henry Rawle and Judge Mitchell, delivered addresses. These were eloquent

and genuinely merited tributes to an extraordinary man. Mr. Smith had an unusually acute and active mind, quick perception, bravery amounting to audacity, at times, in one so young—he was but a little beyond thirty when he died;—and he had, also, considerable claim to manly beauty of a classic type. He was a fluent, impressive speaker, and in the brief span of his interesting life, found time to devote himself to political matters, in the midst of the really engrossing practice that rapidly fell to his most capable care.

George D. Budd, another phenomenally endowed young lawyer, was taken from us, betimes, he having scarcely attained his thirtieth year. He had, however, already established for himself an enviably high reputation. His early success was all the more remarkable and praiseworthy, since, in his day, the juniors of the bar had not the op-

portunities that are now afforded them. As it was, Mr. Budd was associated with the leaders of his day in some of the most important litigations, and in his arguments he held his own with the most experienced colleagues, as well as with the most formidable antagonists. Apparently, his premature death cut off a career which would have equalled in distinction that of the lamented Richard C. Dale, who likewise gave promise, at the threshold of his professional life, of the great future that crowned his life.

There has never been associated in any Philadelphia law office such a constellation of gifted men as were the colleagues of that very great lawyer, St. George Tucker Campbell, during the busy decades of the sixties and seventies. There were, James E. Gowen, of equal force and capacity with his chief, but graced with a sweetness of disposition that the most untoward emergency did not

disturb, and a victim, in the very climax of his great usefulness, to the extraordinary strain of constant and most laborious devotion to arduous duties; James F. Johnston, a tremendous legal engine, who likewise, prematurely broke down under colossal burdens; and Edmund A. Mench, also untimely called away, on the threshold of a career full of auspicious promise to one so able, and so uninterruptedly amiable, withal. Thomas Hart, Jr., a gentleman of very great ability and application, and Alexander Dallas Campbell, were the sole survivors of that exceptionally busy office. Mr. Hart had, as the sequel made evident, an iron constitution which enabled him to successfully assume the weight of responsibility which, not to speak of other taxing demands, the protracted Reading Railroad litigation cast upon his most capable shoulders. He was, of course, greatly assisted by Mr. A. D.

Campbell, who is affectionately remembered by his contemporaries as one of the most cheerful souls that ever enlivened the practice of the law; and whose too early death was, indeed, an afflicting dispensation.

Charles Follen Corson, long since dead, the victim of an appalling accident, in the prime of life, merits an especial tribute from me as a lawyer and man. He was as learned as he was unpretending. An experience with him, which it is very pleasant to recall, suffices to indicate his genuine Christian character. In the course of certain litigation, in which we were opposed to each other, I received from Mr. Corson a letter which exhibited unnecessary temper and was, unquestionably, discourteous. Surprised as I was at its tenor, it coming from a gentleman as I knew him to be, I deemed it my duty to each of us to return the note to him, accompanying it with a courteous intimation that

I was sure that, upon reflection, Mr. Corson would regret having written it. Immediately upon the receipt of my acknowledgment of his communication, Mr. Corson came to see me and, with tears in his eyes, said to me that he had, unfortunately, an infirmity of temper which sometimes got the better of him, and begged my forgiveness. Of course, there was no further discussion of the subject. We shook hands and parted, good friends as before, and thenceforward.

In my attempt to do justice to the memory of George W. Thorn, there is a reference to some of the peculiar characteristics of the old Northern Liberties district, which continued to be displayed long after the municipal consolidation of 1854. There were other good lawyers identified with practice in that part of the city, and whose comparative distance from the courts and public offices did not militate against

their success. Robert M. Logan, whose office was on Third street near Noble street, was one of these lawyers. He was a stately, courtly gentleman of the old school, with a charm of manner, inseparable from the possession of a cultivated intellect and an exalted character. He enjoyed a good practice, among the merchants and manufacturers of his neighborhood. His type, like that of Mr. Thorn's, is forever vanished.

Seventh street, above Market street, had, also, for many years, its legal colony. The continued existence of these legal settlements was due to their being so readily accessible to their particular and respective clients. Public transportation was not what it became later, and all intercourse, in the absence of the telephone and the local telegraph, had to be personal and direct. Among the active practitioners in this neighborhood were John D. Bleight, Wm.

D. Bispham and Nathan H. Sharpless. Mr. Sharpless was well remembered even in later times; and it is but a few years since his death. He was a clear-headed, studious, and industriously busy lawyer. He pursued the even tenor of the professional way, and was not conspicuous for eccentricity in the ordinary walks of life; and yet, such are the contradictions in human nature, he was the one Philadelphian, I believe, who, apparently, in furtherance of a previously formed purpose, never visited the Centennial Exhibition during the six months of its continuance. There was never any reason assigned for this voluntary deprivation, for it must have been nothing less to this very intelligent and far from prejudiced or ascetic man. It was it would seem, much the case as that of Mr. Wakefield, in Hawthorne's remarkable psychological study. The original ca-

pricious impulse to absent himself, insensibly grew until it became irresistible.

I have always thought that David Paul Brown, Jr., whose office was long in the classic Fifth street neighborhood, and who seemed to have a fair practice, was inevitably overshadowed by his more famous orator father, David Paul Brown. This should have not been so; for he was a far better lawyer than his superficial progenitor. They were dissimilar in every respect. The son was a hardworking lawyer in purely civil matters, conscientiously devoted to his comparatively modest clientele. He was a quiet, unpretentious man, with much natural grace of manner, and a pleasant conversationalist, although no orator.

In the same locality was the office of John H. Markland, who, Judge Sharswood was accustomed to remark, had no superior in legal and general scholarship at the bar, in

his time. Mr. Markland was not, however, an active practitioner, and in consequence, was personally known to but very few of his fellow lawyers.

Sir Jonah Barrington, in his "Personal Sketches of His Times," relates how he came across an aforetime successful Dublin barrister, habited as a Turk, sitting cross-legged, selling dates, in a bazar, in Constantinople; and in one of Hawthorne's tales, is a character who had graduated from the law into the soap-boiling business. Such versatility was exhibited in the instance of William L. Dennis, a member of the Philadelphia bar, long ago passed away. Dennis began life as a minister of the Baptist faith, wherein he was eminent and popular, but which vocation he forsook for the law. Apparently, the serious side of the law had no abiding attraction for him; and, beyond his grateful, though

perfunctory recognition of the frequent manifestations of judicial consideration in the very remunerative "audits" which came to him under the old order of things, it is not believed that he was at all concerned about legal matters. He never argued or tried a case. He was much in vogue as a public entertainer, and derived a material portion of his livelihood, from the delivery of humorous lectures, of some merit, in the city and surrounding country. He was a very curious and amusing compound of Thackeray's Fred Bayham and the Rev. Charles Honeyman. An accurate analysis would, probably, have disclosed more of the latter than of the redoubtable "F. B." Dennis had a handsome, portly presence, was the soul of good nature when things went his way, and was a shining light on a convivial occasion. His epitaph might rightly read: "He loved the

good things of this life and always had them."

The bar of the present time suffered an irreparable loss in the death of J. Martin Rommel, of whom the highest conceivable praise that can be uttered is the indisputable assertion that he was quite of the pattern of the high class lawyer of the epochs which preceded his own. In him, the best and most approved traditions were happily exemplified. It was my privilege to have seen much of this accomplished lawyer and exemplary citizen, during the closing years of his beneficial existence. As an opponent, he was extremely skilful and an adept in every honorable method of warfare. He could have had a judgeship, for which position he had rare qualifications; but he manfully resisted the temptation which the honor tendered him presented, and he told me that he considered

the lawyer's career, on the full tide of which he had entered with so much deserved success, was far more attractive a vocation than the merging of his individuality as a member of a court.

Henry T. King, a thoroughly good lawyer, although somewhat of a dreamer, and, by one of the numerous accidents of local politics, City Solicitor for one term, was a very handsome person, with a physiognomy marvellously resembling the portraits of the Saviour. Of this resemblance, those who knew Mr. King well, had reason to believe that he was abundantly conscious. He was an acceptable public official, performing his full duty to his municipal client in an undemonstrative manner. His abilities were more than average, but the personal vanity of which he was not entirely devoid, did not develop any professional conceit, and it was always as agreeable to have him either as

an associate or as an opponent. As intimated, he possessed an attractive exterior, the charm of which was intensified by his melodious voice, and he was at all times scrupulously well attired. Mr. King was the author of a rather clever volume of reflections on human existence and kindred topics, showing the writer to have been a real philosopher and thinker. The book is entitled "The Egoist," and is well worth perusal.

Charles Buckwalter, a young lawyer, one of the many graduates of George W. Biddle's office, enjoyed great and deserved popularity as a public speaker. He had been a diligent student, and would have developed into an efficient practitioner. Not that he did not identify himself with professional work; he was fairly on the high road to success, when his early demise suddenly removed him from the stage of life. His ambition was, however, to be a national leg-

islator; and his best energies were unceasingly devoted to the realization of that most honorable purpose, in one so generously equipped with the requisite qualifications. Had he belonged to the dominant political organization, there is no question that his desire would have been gratified. Unfortunately, in this regard, Mr. Buckwalter's uncompromising Democracy destroyed even the prospect of a possible fusion in his interest. Could he have gone to Congress, he would have distinguished himself, and would have been a credit and honor to his native city. Philadelphia has had few good lawyers at the national capital, and Mr. Buckwalter's professional training was of the best, and his standard of excellence in the law, as in other fields, was a high one. He was of old Pennsylvania stock, having been the ninth oldest son in the family succession. Mr. Buckwalter dying unmar-

ried when not much beyond his thirtieth year, this remarkable series of ancestral coincidences was, of course, at an end.

The personal intimacy existing between preceptor and students so pleasantly set forth in Mr. John Samuel's account of Judge Cadwalader's office, made it possible for the fame of the lawyer with numerous office students, to endure for a much longer period after his death, than under the new dispensation. Thus, the memory of Edward Coppée Mitchell, notwithstanding the twenty years which have elapsed since his most regrettable departure from us, still lingers with an abiding sweet fragrance in the minds and hearts of the host of lawyers whose thorough training at his most competent hands, was of very material help in the attainment of the high positions at the bar so many of them already securely hold. In the ripe vigor of his maturity, with a heart as young

and as sympathetic as when he entered upon the common struggle, with clients and friends almost innumerable, there came the deplorably premature end. The densely crowded old District Court room on the occasion of the delivery of the beautiful memorial address by Judge Mitchell conclusively indicated the high esteem and affectionate regard in which Coppée Mitchell was held.

My dear old friend James J. Barclay had an office for many years in the Athenæum building on Sixth street. And what a preposterous pretence of an office it was! The dust of ages, apparently sacred in Mr. Barclay's eyes, for never would he permit its disturbance, covered the myriad pamphlets and old documents in red tape, the effete text books of an earlier era, the crazy tables and chairs, and the carpet that had once a pattern, but which age had withered such

infinite variety it may have had. In this opaque environment—with the most palpable of foxy wigs, a rusty suit and silk hat still rustier, but a dignified and cultivated gentleman in any garb, however poor and plain—Mr. Barclay seemed as cheerful and content as the most prosperous attorney in the most elaborately furnished suite. He was a lawyer by profession, and had been a student with one of the great men of his youth; but I am sure he never had a client, and he would have been embarrassed, had one intruded upon the tomb-like quiet of that strange office. It is very certain, however, that he would have been courteously received; for Mr. Barclay, like all men whose lives are devoted to good works, was the kindest-hearted and most unselfishly considerate of mortals. The secretaryship of the Board of Managers of the House of Refuge, was his only ostensible vocation;

but he was identified with numerous charities, public and private, and the tranquil life of this very happy man was spent in efforts to benefit his brother man.

Many years ago, upon an early morning walk at old Long Beach, on the New Jersey coast, I overtook a quiet, reserved young man, with a pleasant Irish accent; and with whom the stroll was agreeably continued. In the course of conversation, my companion informed me that although he was still identified with mercantile business on Market street, Philadelphia, it was his purpose to engage in the practice of law, to the preparation for which he was zealously devoting all his spare time. This was my first acquaintance with Richard P. White, afterwards long the most active and the most successful of our *nisi prius* lawyers. There can be no doubt that Mr. White tried more causes than any of his contemporaries; and a true

history of local jury trials would record in his behalf, a vast series of brilliant triumphs. In the midst of his busy career, Mr. White somewhat surprised me with the confession, that he never sat down to try a case without a feeling of nervousness. Yet, upon reflection, there was no good reason for surprise. Dr. John Brown, of Edinburgh, has finely said that the physician should have sympathy as a motive and not as an emotion. This is no less true of the lawyer. And so, Mr. White's preliminary nerve disturbance was, after all, but a salutary symptom of the intense consciousness of his responsibility, which possesses and inspires the really capable advocate as he enters upon the combat of a jury trial. When Mr. White had "warmed up" to his case, as he promptly did, he was as fearless as he was formidable. He was also a skilful sailor, whom it would be scarcely just to put

in the merely amateur class; and his personal management of his yacht was notable for the display of the same intelligence, adroitness and courage which won for him his countless victories from juries.

Seated at his desk, in his unpretentious office at the corner of Sixth and Walnut streets, with no array of students, or imposing office equipment, Henry S. Hagert would have justified the conclusion by an ordinary observer, that the occupant was neither active, ambitious nor successful. Never could opinion be more erroneous. The simple personal life of Mr. Hagert was reflected in his professional existence. No abler lawyer ever added honor to himself or his calling. This apparently indifferent person was, at all times, promptly and keenly alive to every demand upon his diversified activities. Absolutely devoid of artificiality or affectation, his counsel was unqualified, pos-

itive and clear; and his addresses to juries, as well as his arguments to courts, were concise, quietly forcible, and attention-commanding. He scorned to "seem busier than he was;" and although he had a good, remunerative practice, there was nothing in his demeanor that bespoke it. It was a splendid manifestation of perfect self-control and philosophic poise. When Mr. Hagert became District Attorney, those who knew his sterling excellence, were not surprised at his distinguished career. Although he had not at all been concerned in litigation in the criminal courts, his great abilities speedily served to convince the bar and the community that as a public prosecutor, he was an inestimably efficient public servant. His record in this important office is one of the glorious memories of the Philadelphia bar.

Simon Sterne, born in Philadelphia, in 1839, the son of very poor parents, became

a member of the Philadelphia bar in 1860, having been a student of John H. Markland. A few years after Mr. Sterne's admission to practice, he removed to the city of New York, where his professional and public career won for him merited distinction. Although a busy lawyer, he was a close student of political economy and of public questions, generally. He was the author of a number of works on these topics. His extensive politico-economical library was bequeathed by him to the New York Public Library. Mr. Sterne was one of the first to advocate the adoption of minority representation, and some of the most important provisions of the Interstate Commerce statute are largely based upon his suggestions. He never held a public elective office; but he served with advantage to the community, upon numerous state and national commissions. At the meeting of the bar of the city

of New York in honor of his memory, in 1893, Mr. Joseph H. Choate said of Mr. Sterne: "His enthusiasm—I might call it his intellectual enthusiasm — was a most marked trait, and made his life always fresh and interesting. It always seemed to me that he lived on a higher plane than most lawyers. Although his profession absorbed very much of his attention, it never absorbed his whole energy, which was very great. He loved it and labored and succeeded in it, but he loved other things better. He was always watchful of social movements, in the higher sense of the word, being a careful and constant student of those things in which the welfare of the community was involved." A fountain erected in the centre of metropolitan traffic, has this inscription: "In memory of Simon Sterne, a good citizen."

OFFICIAL ROBES

The first formal discussion of the subject of judicial gowns in this jurisdiction, was had at a dinner given in the winter of 1885, at Augustin's, on Walnut street, Philadelphia, to the judges of the Supreme Court, by a committee of the Law Association appointed to present the subject to the members of that court. Mr. Richard Vaux was chairman of the committee, and Chief Justice Mercur was the spokesman for the Supreme Court. Among other members of the committee, including myself, were Messrs. William Henry Rawle and Samuel W. Pennypacker. Mr. Vaux may fairly be considered as the father of the judicial gown. It was his hobby. He thrust the subject so repeatedly and so persistently, upon the attention of the Law Association, that the action indicated

was finally taken, but with no enthusiasm, and mainly to secure relief from Mr. Vaux's importunity. There was then no very active sentiment in favor of gowns, either among lawyers or judges. On the contrary, the subject was, generally speaking, often a matter of jest. At the dinner mentioned, the judges of the Supreme Court desired an expression of views on the matter from the several members of the committee. Mr. Vaux was the first to present his proposition. In one of his characteristic efforts, with its picturesque, peculiar and at times archaic English, he elaborated the familiar argument that the adoption of gowns—"the ermine" he always styled it—would enhance the respect of the bar and of the community for courts and their proceedings. He was followed by Mr. Rawle, who, rather irrelevantly, told of his experiences when traveling on the English circuit, of the imposing

ceremonies attendant upon the judges' arrival at a city, their reception by the gorgeously arrayed sheriff and deputies at the city gates, the *fanfare* of the trumpets and all the "pomp and circumstance" incident to the occasion; but there was not a word of cogent persuasion in favor of judicial robes. Then, much to my surprise, at least, the best argument in support of the proposition of Mr. Vaux, was offered by Mr. Pennypacker, whose extremely plain and unpretentious tastes—or notions is, perhaps, the better word—in the matter of costume itself, were obvious and notorious; and from whom, of all men, an urgent insistency that our judges should assume the particular garment, was least to be looked for. Then, it fell to my modest share, in the weighty discussion, to present my own more or less crude ideas. The opinion was, accordingly, ventured, that the abiding esteem of the

profession, and the consequent respect of the community for the majesty of the law as embodied in its courts, might be sufficiently and securely maintained and intensified by a high standard of judicial demeanor and effort. The judge who conducts the proceedings directed by him, with propriety and dignity, constantly animated by the conviction that he is the incarnate representative of the law he is delegated to administer; who instinctively refrains from belittling his position by indulgence in frivolity or unseemly pleasantry; who rigidly restricts his official utterances to the actual needs of the contentions over which he is the arbiter, and whose decisions are habitually lucid, intelligent, sound and impartial, requires no adventitious costume to fortify or emphasize or confirm his decisions. On the other hand, no robe of office, however imposing, can be of effect to make the performances of an in-

competent, unworthy or undignified legal magistrate, acceptable to the bar, nor can it prevent on the part of the public, an inevitable want of veneration for such a delinquent.

The twenty years which have elapsed since the custom of judicial uniform has prevailed in our tribunals, have served to emphatically affirm this view. The moral atmosphere of these courts has in no degree improved during that period. Even the formalists who once claimed that gowns would effect a magisterial transformation akin to that foretold in Scripture: "as a vesture thou shalt fold them up and they shall be changed," must have their doubts. Lawyers are not more courteous and respectful, nor are audiences better behaved. Certain of our judges, conspicuously eminent for the extremely decorous discharge of their functions, and whose admirable legal attain-

ments form a becoming background for the attractive picture their model official service presents, would be equally efficient, in every respect, unequipped with gowns. There are, and have been, others of their brethren, however, whose educational and personal disqualifications, or their incurable flippancy,—these shortcomings, sometimes, hopelessly conjoined—are rendered none the less reprehensible, if, indeed, they are not made more odious, by the silken gown which custom has prescribed for them. In the last analysis, it may with confidence, be urged, that after all, uniforms serve but the common purpose of enforcing discipline. For soldiers, sailors and policemen, railway employés and others of that class of servants, an appropriate and identifying garb is clearly an effective end in securing and maintaining satisfactory discipline and service. For a judge, however, rightly consid-

ered, it is no more necessary, nor is it more becoming, than if worn by a president or a governor. Justice, be it in candor confessed, was treated with great indignity, when it was inconsiderately pigeon-holed in that misfit architectural conglomerate, our City Hall. There is some vague talk about a separate court house in the future, on the Boulevard or somewhere. Until more respectable provision is made for the courts of Philadelphia, than is comprised in the random, happy-go-lucky method of scattering them through the murky corridors of the public building,—"a mighty maze and all without a plan,"—it will require more than judicial robes to overcome and neutralize the unpleasant effect of their present accommodations. These so completely and irremediably discredit law and justice, that not even the gowns can afford relief.

COURT CLERKS

Among the absolutely ornamental public officials, a prothonotary stands conspicuously foremost. He continues to be selected by the Board of Judges, and conscientiously accepts the handsome emoluments of a practical sinecure. Under the experienced guidance of the thoroughly qualified and thoroughly hard worked Chief Clerk, he perfunctorily, and semi-occasionally, signs such documents as statutory requirements render obligatory. As in the case of a recent incumbent, he materially assists in maintaining the high dignity of his lucrative function, by wearing in his *sanctum sanctorum*, during his brief office hours, the silken robes that invested him on the bench, prior to his prothonotaryship. There must, naturally, be a head to every department of

human activity; and so with the office of a court of record. Only, in this instance, the anomaly is presented of the head doing no work, literally or metaphorically.

What would we do without the Chief Clerk? asks the appreciatively grateful professional person. How incalculably much the comfort, convenience and happiness of countless lawyers, living and dead or forgotten, have been increased by the kindness, the courtesy, the ever ready practical suggestions, of such men as Benjamin R. Fletcher, of the old District Court, subsequently of the present Common Pleas Court, and later, prothonotary of the Supreme and Superior Courts; as Charles B. Roberts, or Thomas O. Webb, of the old Common Pleas Court! These are the gentlemen to whose honored memory portraits should also be placed on the walls of the Law Association. They have done more for the lawyers of

Philadelphia than have many of their brethren whose, with few exceptions, inartistic and unresembling effigies sometimes interrupt or disagreeably affect our meditations and investigations in the law library. The public services of each of these clerks, and of others of their grade, who happily survive, and whom, therefore, it would be indelicate to name, have been conspicuous for untiring, conscientious devotion to their manifold labors, always accompanied with an amiable disposition and temperament which no pressure of affairs, however overwhelming, affected or diminished. In dear old "Benny Fletcher," as he was affectionately nicknamed by the lawyers whose professional paths were daily and hourly made smoother by his unselfish ministrations, there was in reality manifested the

> "Constant service of the antique world,
> Where service sweat for duty, not for need."

The refined technicalities of legal practice were far more intricate in his day than they are now; but Fletcher was a richly furnished and readily exploited mine of information on all, even the most recondite, questions of practice; and official kindness and official amiability were never more liberally exhibited than by him. He was the personification of Christian self-sacrifice; and he set us, his inestimably favored contemporaries and beneficiaries, a lesson of patient well-doing during his long life of good works, that must have left its enduring impress.

To Charles B. Roberts, the Chief Clerk of the Common Pleas Courts, for so many years, and Mr. Fletcher's successor, the same genuinely cordial tribute is due. He gracefully bore the great burden of his extremely diverse cares, so that the performance of duty by him seemed to be a veri-

table delight. No inquiry, whether trivial or important, no matter how great his occupation or pre-occupation, whether presented by a blundering tyro or by an experienced practitioner, ever failed to be accorded prompt and civil consideration, and a satisfactory response. Undemonstrative promptitude was a signal characteristic of Mr. Roberts. Ambition, when rightly inspired, is a cardinal virtue; it can have no more commendable manifestation than in the obvious purpose of such a public servant as Mr. Roberts, to give the Commonwealth, the courts, and his profession,—for he was a lawyer and a good one,—the very best of which his exhaustless energy and uncommon capacity were capable.

The old Court of Common Pleas of Philadelphia County, with its multiplicity of jurisdictions, necessarily required an extensive clerical force for its official work. Its

Chief Clerk, Thomas O. Webb, most agreeably remembered by the older members of the bar, conscientiously and faithfully discharged his varied and exacting functions, for many years. He came from the old Southwark district, and belonged to a family in honorable repute. Mr. Webb was a dapper, little man, surcharged with mental and physical activity to a high degree. In popular parlance, he "ran the office." Not less than by the active practitioners, he was held in deservedly high esteem by the judges of his court; and, I recall, particularly, a pleasant custom of more than one of them, of dropping into the prothonotary's office after the sessions of the court, for a chat of an hour or two, with the intelligent and amiable clerk. Judge James R. Ludlow, especially, was an almost daily visitor; and his friendly regard for Chief Clerk Webb was, of course, abundantly reciprocated by his subordinate.

Upon these occasions, members of the bar who happened to be present, availed themselves of the opportunity afforded, for unrestrained social converse; and such oft-recurring and delightful episodes were graphically illustrative of the genial professional and judicial intercourse which, not so many years ago, added an attractive charm to the practice of the law.

THE RIGHT OF PENNSYLVANIA LAWYERS TO PRACTICE IN ALL THE STATE COURTS

Pennsylvania is reprehensibly behind many of the other States of the Union in the persistent maintenance of the antiquated system which refuses a practicing lawyer the right to exercise his functions beyond the limits of the courts of his place of residence. He can, indeed, such is the anomaly, upon the observance of certain prescribed regulations, appear before the Supreme and Superior Courts, wherever they may be respectively holding their sessions. He may not, however, if he be a Philadelphia lawyer, as much as purchase a writ, say, in Montgomery or Chester county, if he be not, also, enrolled as a practitioner in the neighboring jurisdiction. This might have been

natural and convenient enough, in the days of stages and canals; but it is unreasonable, inconvenient and unjust in the telegraph, telephone, trolley and railroad epoch. Our State Bar Association annually brings together a large and influential delegation of Pennsylvania lawyers; and its meetings are marked by the most cordial indications of unselfish professional brotherhood. It is devoutly to be desired that some practical outcome of so much good feeling might be devised in the shape of suggested action to the end of establishing the privilege of universal practice throughout the State.

Obviously, the existing order of things had its origin in the provincially jealous attitude of the various local bars. This sentiment, alone, however, could not determine the question, as against the plain provisions of the Acts of 1885 and 1887, which provide for the admission of an attorney of one

jurisdiction by another, upon compliance with two important requirements, namely, the proof of the applicant's admission to the Supreme Court, and the presentation of a certificate of the presiding judge of his district or county, setting forth that such applicant is of "reputable professional standing and of unobjectionable character."

In the case of Splane's Petition, decided by the Supreme Court in 1888, and recorded in 123 Pennsylvania State Reports, page 527, this seemingly wise, sound and necessary legislation was unfavorably commented on by Chief Justice Paxson, in a peculiar opinion. This decision, apparently, worked no hardship or injustice in the particular case; the applicant, according to the reported facts, having no meritorious standing before the court. He was not, actually, in a position to avail himself of the provisions of the Act of 1887; and the lower court's refusal to admit

him was, therefore, properly sustained. Accordingly, it was not really obligatory upon the Supreme Court to include, in their opinion, a regrettable attack upon a well-conceived and beneficial statute.

Not venturing to brand the statute of 1887 as unconstitutional, Judge Paxson discreetly limits himself to observing that the Court "are not willing to concede to the Act the full effect claimed for it," inasmuch as the admission of attorneys is a judicial and not a ministerial act, and, therefore, beyond the control of the Legislature.

That "the Legislature has no judicial powers" is an elementary truism. But is not the act of Assembly, thus put under the ban by the highest court, a proper exercise of the prerogative of the law-making body? It imposes no unjust obligation upon the local courts in providing, as it does, for the convenience of Pennsylvania attorneys at

large. It is as unobjectionable as the original statute (of 1834), which invested courts of record with power to admit "competent persons of an honest disposition and learned in the law." An argument, similar in tenor and effect with that of Judge Paxson, might have been pressed against this very statute, contending that it was an attempt to control the courts, in its designation of the essential qualifications of attorneys.

The Act of 1834 was a universally accepted instance of the power of the Legislature to establish a general rule as to the requirements of admission. The Act of 1887, strictly following in the same line, only amplifies these requirements, without definitely changing their character. No more than in the first statute, is there any injustice or disrespect implied in the terms of the later act, in its amplification of requirements for admission. That the origi-

nal act uses the language "the courts shall have the power to admit," and that the subsequent law employs the expression, "any attorney or counsellor shall be admitted," does not compel the conclusion that one is more objectionably mandatory than the other.

An integral portion of the opinion of the Supreme Court in the Splane case may be quoted as an evidence of their inadequate consideration of the subject. Say the Court, through the Chief Justice, in conclusion: "It [the law of 1887] is as unwise as it is illegal. It is an imperative command to admit any person to practice law upon complying with certain specified conditions. Yet between the time when the applicant has obtained his certificate of good character from the judge of the district where he last resided and practiced law, and the presentation of the same to the court which he

seeks to enter, he may have committed some act which would render him an unfit person to practice law, or even to associate with gentlemen."

This characterization of the law of 1887 is not at all justified by its language. This statute expressly provides, in phraseology which could not be more explicit or unequivocal, that the certificate of the presiding judge of the applicant's district or county must set forth a favorable *contemporary* report of the applicant's standing and character. A "stale" certificate would not be warranted by this law, and the refusal to honor it by the court in which the application for admission might be made, would be right and proper, and, in no sense, in disregard of the statute.

The Act of 1887 is not as much an invasion of the court's prerogative, as is this extrajudicial interference by the Supreme

Court with the rights of Pennsylvania lawyers. The Legislature, substantially adopting as a precedent, the statute of 1834, has said, by the later act, that a Pennsylvania lawyer—and that title properly belongs to every member of the bar of the highest tribunal of the State—shall have the right to practice in every subordinate court in the State, under certain specified conditions. In this enactment it has but followed, too, the legislation of other States in this regard. Practically, the experience of the courts of these sister States affords no ground for the gloomy anticipations of Judge Paxson. While our own statute was inspired and justified by the legislative and judicial precedents of other States, it is, of itself, a proper and desirable exercise of legislative authority, in that it provides for uniformity of practice in our courts. A just appreciation of the Act of 1887 finds in it, only, a com-

mendable purpose to assist these courts, as well as to legitimately advance the standard and extend the privileges of the legal profession.

A PENNSYLVANIA PRINCIPALITY

The romance of history has never been much exploited in Pennsylvania, notwithstanding its wealth of available material. It should all be rescued, betimes, else hopeless oblivion will overwhelm it forever. There are abundant episodes of absorbing interest in the early annals of the Commonwealth, and few more entertainingly unique than that, the particular scene of which was the locality where Philipsburg, in Centre County, now stands. This comparatively modern lumber and mining town on the Tyrone and Clearfield Branch of the Pennsylvania Railroad, takes its name from one Hardman Philips, a famous personage in his day, and the protagonist of a remarkable drama.

Philips was an Englishman by birth, who,

trustworthy contemporary report affirmed, had been obliged, in early manhood, to emigrate to this country, about the beginning of the nineteenth century. It was, however, neither asserted nor implied that his involuntary residence here was the consequence of the commission of any crime by him. It was the prevalent belief that either domestic disagreements or family troubles had compelled the permanent change of domicile. As it was, Philips, who was a gentleman by inheritance and education, brought with him considerable means. Almost immediately after his arrival in the United States, he purchased a large tract of land, part of which, as intimated, is now the site of Philipsburg. He erected a substantial and commodious stone mansion house on the commanding side of the mountain, overlooking the present town. This edifice, of agreeable proportions, is still intact, in ex-

cellent condition, and is the thoroughly comfortable home of his successors in the title, although not his descendants.

All the appurtenances and incidents of an old-country landed estate, including farm-buildings, tenantry, imported high-grade stock of all kinds, and extensive agriculture, were, in the course of a few years, of effect, under Mr. Philips' intelligent and masterful management, to transform the wilderness into the semblance of an imposing manorial seat.

In those earlier days of infrequent, limited and defective methods of transportation and communication, this section of Pennsylvania did, by no means, partake of the homogeneous character with which railroads, telegraphs, telephones, daily newspapers and constant mails have since invested every part of the State. In the light of the primitive conditions thus denoted, it was not at all a diffi-

cult undertaking for Hardman Philips to establish and maintain, as he practically did, on his great domain, what was, in substance, an *imperium in imperio* within the borders of the so to speak inchoate commonwealth. It was his princely pleasure to exercise, but, of course, without duly prescribed legal warrant, the functions of an autocratic suzerain over the territory thus secured by him, and the village communities that became its inhabitants. If not exactly the arbitrary dispenser of life and death to the scattered residents of this secluded and remote region, he, at least, asserted, and with success, as the sequel showed, his right to act as umpire in every dispute; and he was, generally, accepted as the ultimate authority in all the concerns of these, his actual subjects. The fear and respect, felt and accorded in equal degree by these people for their *soi-disant* lord paramount, were the outcome of his

imperious temperament, not less than of the wealth which was a potent instrument in the gratification of his passion for rule.

His means, his education, and his social graces fully qualified Philips to act the host. The stranger, therefore, whose manners justified it, invariably received hospitable treatment. It is a particularly noteworthy circumstance that the judges of the Supreme Court on their protracted and wearisome journeys to and from Pittsburgh, were accustomed to make a sojourn of some duration at the Philips mansion; and, no doubt, among the unpublished correspondence of some of these judicial visitors, there can be found appreciative comments upon the kindly and bountiful cheer that distinguished the occasional appearances of these honorable guests of the homestead.

No more convincing illustration of the absolutism that characterized Mr. Philips'

sway over the land, can be adduced than the fact, which appears to be undisputed, that in his arrogant and exaggerated sense of his power, authority and importance as a great landed proprietor, he, at last, seriously contemplated the establishment by law of a separate dominion of which he should continue to be *de jure* the ruler as he had been *de facto*. Impelled by this essentially feudal purpose—what appears, now, to be a wild and erratic conceit on his part, but which may not have seemed so under the simple conditions of the various communities of which he was the chief—he did, in all seriousness, desire the Pennsylvania State Legislature to pass a statute, drafted in his behalf, exclusively investing him with all the incidents and powers of the government of his little principality. Needless to state that, although such a bill was actually introduced,

no such law is to be found in the records of legislation.

The more recent and more familiar history of the Commonwealth of Pennsylvania abounds, indeed, with instances of equally autocratic sovereignty in the department of practical politics; and there have been—perhaps the present tense might here be more accurately employed—political leaders as indisputably absolute in the entire State as was Hardman Philips, within his own extensive precincts; but, obviously, no formal confirmatory legislative enactment has ever been invoked or needed to sustain the high prerogative of the political magnate.

ANECDOTES

As provided by the Schedule annexed to the Pennsylvania Constitution of 1873, the then twelve judges of the old District Court and Court of Common Pleas, drew lots to determine their respective assignments to the four new courts created by that Constitution. It so happened that Hon. William S. Peirce drew for Court No. 1, and Hon. James Lynd was allotted to Court No. 3. Not long after this provision of the Schedule had been fulfilled, in the method prescribed, these two distinguished jurists met. Judge Peirce, who was quite a humorist, jocularly remarked to Judge Lynd that he had been placed, like the grocers did the mackerel. "How is that?" inquired Judge Lynd. "Why, the small fish in No. 3," replied Pierce. "Ah, yes!" was Lynd's prompt

and witty retort, "and the fish with no heads in No. 1 !"

Edward Hopper always wore the plain gray Quaker garb. Thus attired, with a slouch hat on his head to match this costume, he was accosted by a stranger, a fellow-sojourner at a New England seaside resort, with the inquiry: "My friend, are you a skipper?" "No," was the paralyzing reply, "I am a Hopper!"

In a suit tried in the old District Court in Philadelphia, involving a disputed book account for wines and liquors sold and delivered, Mr. B. H. Brewster represented the defendant. In his summing up to the jury, he took occasion to dissect and criticize the plaintiff's statement of claim. One of the items was, so many "gallons of fine French brandy at one dollar per gallon." Shaking

the bill in the faces of the jurymen, this was Mr. Brewster's incisive and vigorous comment on this item: "Fine French brandy at one dollar a gallon! Great God! Think of it! Think of it, your Honor! Fine French brandy at one dollar per gallon! Why, a man should have a copper kettle for a stomach and a stove-pipe for a throat to drink such stuff as that!"

In the construction of a trolley railway upon a main highway in Delaware county, Pennsylvania, a flag-stone crossing was, without authority, taken up and carted away by the contractor. The matter was brought to the official attention of a local justice of the peace, unlearned in the law, to the end of getting his opinion as to the proper course to pursue to secure the return and replacement of the missing crossing. After a desperate struggle with the

antiquated volumes of his meagre library, this modern Dogberry gravely announced that the offending contractor could be arrested for "*highway robbery!*"

Henry M. Phillips, one of the leaders of the bar from the period immediately preceding the Civil War to many years later, was a member of Congress for one or two terms, and was also socially pre-eminent and popular, both for his genial manners, and his distinguished legal ancestry. He told, with much enjoyment, the following story. His Congressional district had a marked Democratic complexion; so that a nomination was equivalent to an election. A delegation of leading politicians, made up of the typical "unwashed" Democracy, called upon him to tender him this nomination. In doing so, the spokesman informed Mr. Phillips, that although there was a strong

sentiment in the district in favor of Mr. Edward Ingersoll as a candidate, they had concluded to ignore his claims, because he was a "gentleman." And Mr. Phillips was further advised, in the district leader's vernacular: "We don't want no gentleman for our candidate, and so we have come to you."

In the old District Court of Philadelphia, a suit was being tried before good old Judge George M. Stroud, of sainted memory. The defence was in the hands of an incompetent and conceited attorney; but as there was, practically, no case for the defendant, the most capable counsel would have been of no avail. Waiting in court for the trial of the cause next on the list, sat Mr. John P. O'Neill, as plaintiff's attorney. Much concerned over the non-appearance of his most important witnesses, he was possessed with the fear that the speedy termination of the

pending trial would find him perilously unprepared. At this juncture, the blundering advocate referred to, arose to address the jury, and, as he had offered no testimony, he had, of course, the last speech. As he began his remarks, Mr. O'Neill took occasion to urge the attorney, in a whisper, that he make a long speech as a certain means of gaining a verdict. Thus encouraged by so experienced and apparently disinterested a practitioner, the highly flattered lawyer started in with great vigor and enthusiasm. Constantly interrupted by opposing counsel and the justly irritated judge, by reason of irrelevant and improper references to matters not in evidence, the speaker was still prompted by Mr. O'Neill to continue, despite the interruptions. "Keep it up, keep it up, you are winning the jury over. Keep it up and hammer it at them," said the plausible Irish orator. By this time, Mr.

O'Neill's ingenious scheme was beginning to exhibit signs of success. His witnesses were now coming into court, the danger of being forced to trial without them had passed, and his seemingly friendly interest in his voluble brother was at an end. Lacking the stimulus of Mr. O'Neill's encouragement, the speaker's flow of words soon ceased; whereupon the indignant judge, in a few words, directed the jury to find a verdict for the plaintiff. The discomfited attorney gathered up his papers and left the court room, blissfully unconscious of the fact that he had unwittingly saved the day for Mr. O'Neill.

Another member of the Philadelphia bar, blessed with more inherited means than intellectual force or legal attainments, never failed to appear at obituary bar meetings, to offer his unimpressive and discursive tribute

to the departed lawyer. He invariably prefaced his remarks with the words: "Mr. Chairman, it was my privilege to well know the *diseased.*" In an action in which this quaint and clumsy attorney was, himself, the plaintiff, he appeared *in propria persona*, and conducted, unaided, the trial; even going so far as putting himself on the witness stand and taking his own testimony. The verdict was for the defendant. A new trial being refused, there was an appeal to the Supreme Court. The appellant's paper book, prepared, of course, by himself, contained a number of unjust and grossly improper reflections on the conduct of the trial judge. After the paper book had been subjected to the customary cursory inspection by the judges, preparatory to the argument, there was a brief conference between the judges; when Chief Justice Agnew said: "Mr. P., I presume you are, yourself, the

author of this paper book." Mr. P., evidently anticipating a complimentary reference to his brief, arose, and, with a pleasant smile, replied: "I am, your Honor." "Well, then," continued the Chief Justice, "I take occasion to observe that in the opinion of my colleagues and myself, in all our experience, no such offensive paper book has ever been presented to us; and we have concluded that we cannot, with propriety, hear the argument in this case, until the scandalous matter in it is eliminated." The offending paper book was then returned to the plaintiff attorney, who, as he received it, with a smile of beatific self-satisfaction irradiating his face, replied: "I thank your Honor for your kind suggestion."

Mr. David W. Sellers once exhibited to me a paper which had actually been filed by counsel for plaintiff in a suit for dam-

ages for personal injuries, with the familiar caption and endorsement: "Copy of instrument of writing, on which suit is brought;" and which contained, without more, save the plaintiff's attorney's signature, a photograph of the plaintiff, taken, presumably, after the accident.

William McMichael, at one time United States District Attorney for the Eastern District of Pennsylvania, inherited from his father, Morton McMichael, a gift of graceful public utterance, which justified his frequent selection as orator at civic and other celebrations. He had a very pleasant voice, and his manner was agreeably lacking in the theatrical display which is the bane of many speakers. His address at the unveiling of the Lincoln Monument in Fairmount Park was an especially eloquent effort, and equal to the best ever heard in

Philadelphia. Mr. McMichael had a fine sense of humor, and was accustomed to relate, with great glee, his unfortunate, though amusing, experience at the dedication of the monument to the deceased members of the Artillery Corps, Washington Grays. This memorial,* now in Washington Square, was originally placed at the corner of Broad street and Girard avenue, and was without the pedestal that now supports it. Mr. McMichael had been designated as the orator for the dedicatory ceremonies, and had, of course, made the requisite preparation. He had, however, seen neither the monument nor its design. And thus it came about that, giving free rein to his exuberant and patriotic fancy, he pictured to himself an imposing structure in stone on the usual scale and pattern. The peroration of his address was, accordingly, in this fashion: "And now there will be unveiled and disclosed to

*This memorial has at last become a monument. While these pages are passing through the press, a soldier's figure is replacing the "hitching post."

the blessed light of day, this magnificent creation of the sculptor's genius; this proud realization of the fervent desires of the survivors of these immortal heroes; this noble shaft towering to the empyrean, to tell for all time to come our veneration and our affection for those who died that the nation might live." The address being thus concluded, Mr. McMichael observed, the canvas covering was withdrawn, only to reveal to his embarrassed and disappointed glance, what he humorously characterized as "a miserable little hitching-post."

J. Buchanan Crosse, a nephew of Ex-President Buchanan, was one of the most accomplished forgers of his time. His remarkably clever and temporarily successful attempt to forge his way out of jail, an interesting story of itself, is disclosed in the case of Commonwealth *ex rel.* Crosse *vs.* Holloway, 44 Penn-

sylvania Reports. As reported in that volume, *habeas corpus* proceedings in the Supreme Court, despite the able argument of his counsel, the late Edward H. Weil, failed to secure his release. A peculiar incident of these proceedings in the Supreme Court, was the universally commented upon physical resemblance between the relator, himself, and the then Chief Justice Walter H. Lowrie. In complexion, color and quantity of hair, contour of head and of features, and the color of eyes, they would have been, under other circumstances, practically undistinguishable. In the light of Crosse's extraordinary achievements in his special field of crime, it is fair to assume that his intellectual provision was on a par with that of the Chief Justice; so that, on the moral side, only, was there a discrepancy.

As late as the Centennial year, 1876, it

would have been almost a breach of professional decorum for a lawyer in Philadelphia to be without a green baize curtain on a brass rod at his office window, as well as to have this office elsewhere than on the first floor. There was considerable consternation and unfavorable comment, when Daniel Dougherty and E. Hunn Hanson courageously ventured to the second floor, at Seventh and Walnut streets.

Unquestionably, the most unique interior in the way of an old-fashioned law-office was that of Colonel Charles J. Biddle, on Sansom street above Seventh. Colonel Biddle had some odd and inexplicable notion about the upper stratum of air in a room; for his private desk was placed on the top of the large office table. His accustomed seat at this desk was reached by a series of steps extending from the floor to the table top. No doubt, many others, with myself, were

astounded when first confronting this apparition in green spectacles inspecting the visitor from his elevated "coign of vantage."

When District Attorney William B. Mann resided at the corner of Fifth and Green streets, he was accustomed to take the Sixth street cars on his way to his office. One morning, he discovered that he had left his watch and chain under his pillow, and so observéd to a friend at his side in the street car. Later in the day, a person representing himself to be a court officer, called at Colonel Mann's residence with a turkey, which the putative messenger stated had been sent by Colonel Mann, with instructions to bring Colonel Mann's watch to him. The watch and chain were duly delivered to the messenger; but they never reached their owner.

Crime, like history, of which it is a part,

repeats itself; for the identical story is told by John Timbs, in his interesting collection of anecdotes about lawyers, doctors and clergymen. Sir John Sylvester, Recorder of London, while trying a man charged with petty larceny, at the Old Bailey, happened to remark, aloud, that he had forgotten to bring his watch with him. The accused being acquitted for want of evidence, went, with the Recorder's love, to Lady Sylvester, and requested that she would immediately send his watch to him by a court officer whom he had ordered to fetch it. The lie succeeded, and the thief got the watch. By the way, might not the Philadelphia criminal have found his inspiration in this published London precedent?

It is related of a certain rather unscrupulous attorney, long since deceased, that having deducted from a sum collected a some-

what exorbitant fee, amounting to about seventy-five per cent. of a rather large claim, and upon his client expostulating with him against the excessive charge, the conscienceless attorney, with well assumed asperity of manner, took out his check book, and hastily drawing a check to his client's order for twenty dollars, petulantly remarked: "Take that, you cormorant!"

Robert M. Lee, once Recorder of the City of Philadelphia, anterior to the Consolidation Act of 1854, was more of a popular orator than an experienced or even ordinarily trained jurist. His manner, delightfully bombastic, was far more important and impressive than his matter. Upon the trial of a cause in which he appeared for the plaintiff, it became necessary for him to amend the declaration in the case; no technical advantage was taken of the privilege accorded Mr.

Lee, and the court thereupon suggested to him to forthwith make the necessary amendment. To Lee's unpracticed hand this was simply an impossible task, in his crass ignorance of the elements of the pleader's craft. So, rising with stately dignity, and with a graceful and condescending wave of his hand to the court, he said: "Your Honor will kindly consider it done!"

At the memorial services of the American Philosophical Society upon the death of Dr. Daniel G. Brinton, the late Professor A. H. Smyth delivered the principal address. As befitted the ceremonious event, Mr. Smyth had prepared his remarks, including a biographical sketch of the deceased. This address was preceded by brief speeches by other members of the Society, the last of whom was Judge Pennypacker. The Judge's peculiar voice, like the late Benjamin Harris

Brewster's disfigured visage, one soon forgets and ignores, in the attractions of a sunny presence, agreeable manner and charming conversation. Yet it is peculiar. Following Judge Pennypacker, Mr. Smyth, in the course of his remarks, went on to observe: "He (Dr. Brinton) worked patiently to improve his style in both his written and spoken discourse. With like patience and persistence, he overcame natural disabilities of speech and gave tone and character to a voice that was unpleasantly marked by the wiry twang of Southern Pennsylvania."

With the living object lesson before his audience, there was an audible expression of amusement on their part, at the unintended but apt illustration of Dr. Brinton's conquered inheritance of utterance.

A Philadelphia political club, the greater portion of whose members were lawyers,

and whose meetings were more frequently convivial than otherwise, emphasized the predominance of its legal contingent in the name of an insidious and exhilarating beverage. It was happily designated the "Sci. fa.," because, in the language of its original compounder, "it revived the judgment."

A very rough diamond was George W. Dedrick; but there was no doubt as to the genuineness of the jewel. He had considerable success at the Philadelphia bar; which his acute mind and the adroit management of his numerous cases before juries by this clever man of the people, fully explained. He was not an accomplished lawyer, but an extremely useful one to his many clients. Dedrick burnt the candle at both ends; and possessed as he was with intense vitality and a partiality for the convivial oc-

casion, his life was strenuous but brief. He had a comfortable residence in the old North Penn District. Here he gave frequent entertainments to his brother lawyers. He took great delight in inviting the unsuspecting guest to inspect what he called his *Law Library*. This occupied the rear third-story room of his capacious house, and consisted, exclusively, of some half-dozen or more barrels of rye whiskey in various stages of development.

Expert testimony in the case of Bergner & Engel Brewing Company *vs.* Clements, given quite a number of years since before me as master, fully partook of the character of burlesque. To test the credibility of a witness called by plaintiffs, and adequately qualified as an expert, a dozen unlabeled bottles, but privately identified, were produced by the defense, and the witness was

desired to specify the contents of each bottle. Each bottle was opened, and subjected by the witness to apparently critical inspection, by taste and smell. In no one instance, however, was his attempt at identifying the contents of the bottle successful; for the defendant's subsequent proof on this point showed that each bottle contained a sample of the product of a well-known American beer brewer.

The impecunious law student, like the poor, generally, will always be with us. His schemes to meet and conquer financial emergencies are countless; but I wonder much if, ever, before or after my own probationary period in the law, any other student wrote sermons as a precarious means of securing subsistence.

In a picturesque rural churchyard in the vicinity of Philadelphia, have, for many

years, rested the mortal remains of a clergyman, who, in simple charity, shall be nameless, whose weekly homilies, for a year or two, came from my unconsecrated and unworthy pen. Sooth to say, they were not models of doctrinal elucidation or exegetical commentary; nor were they of the Tillotson or Bossuet or Jeremy Taylor pattern. However, my work seemed to be acceptable to both parson and people. His satisfaction was indicated by the continuance of my employment; and my favorable conclusion as to the obviously indulgent congregation, is, perhaps, warranted by the inscription on his monument in the parish churchyard, and which embodies a special tribute to his meritorious services as a preacher.

I never had the courage, much less the vanity, to desire it, to be present at the delivery of a single one of these many efforts of mine. I was more than satisfied with the

substantial compensation of five dollars for each of these meagre contributions to ecclesiastical literature, as, upon every Friday evening, at the old Bolivar restaurant, on Chestnut street, the manuscript was delivered to my patron in the cloth, to the far from unwelcome accompaniment of a toothsome oyster stew. To make a complete confession of a delinquency, of which dire pecuniary need facilitated the commission, material assistance in the preparation of these discourses was afforded by a book of "Skeleton Sermons," obtained at Hooker's Ecclesiastical Book Store, as it was called, then on Chestnut street above Thirteenth street, in Philadelphia. With the help of this invaluable and, to me, indispensable little volume, a sort of "Dunlap's Forms," in its way, the fulfilment of my peculiar contract was not more difficult than the drafting of a will or a deed of settlement

from the lawyer's inseparable *vade mecum.*

What a substantial precedent, though, for those who insist upon extemporaneous efforts in the pulpit!

Mr. Eli K. Price, the framer of the Act of 1854, consolidating the various districts of the county of Philadelphia into the present municipal corporation, as well as of the Act of 1873, familiarly known in the legal profession as the "Price Act," facilitating the transfer of decedents' estates, enjoyed a large and lucrative real estate practice. His prominence and great capacity in this important department of the law, occasioned his frequent and wise selection as executor and trustee. His reputation for the skill and ability displayed by him in these positions of fiduciary responsibility, with their, oft-times, very remunerative commissions, extended beyond the ranks of his envious

brethren at the bar. Accordingly, a shrewd, observant and worldly minded mother, conferring with Mr. Benjamin Harris Brewster on the subject of her son's entering his office as a student of law, remarked to his proposed preceptor that it was not at all her desire that the young gentleman should be trained in the general principles of the science, but that it was her particular ambition that her son should "learn to be an exe*cu*tor," as she pronounced it, "like Mr. Price."

A citizen of German birth, drawn for jury duty in the Court of Quarter Sessions, requested Judge Craig Biddle to excuse him, assigning as his reason that he, the juror, "didn't understand good English." "That is not a sufficient ground," replied the Judge; "you are not likely to hear any of it in this place."

Mr. Edward Hopper, overhearing a pompous young attorney arguing his cause in an exaggerated oratorical way, observed: "how much the young man reminds himself of Daniel Webster!"

The trial docket of the Nisi Prius Division of the Supreme Court of Pennsylvania, which was abolished by the present Constition of the State, abounded in actions for damages for libel and slander. This was due to the fact that there was a current impression that juries in that tribunal were more liberal than those in the District Court. It was remarked, in language worthy of Dean Swift, that "the court had become a hospital for diseased reputations."

INDEX